

# SENATE BILL REPORT

## SB 5700

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As of February 9, 2023

**Title:** An act relating to modernization of state health care authority-related laws.

**Brief Description:** Modernizing state health care authority related laws.

**Sponsors:** Senators Van De Wege, Cleveland and Dhingra; by request of Health Care Authority.

**Brief History:**

**Committee Activity:** Health & Long Term Care: 2/09/23.

**Brief Summary of Bill**

- Amends the provisions relating to the payment process for behavioral health advocacy services and require the Health Care Authority (HCA) to reimburse Department of Commerce for those services delivered to individuals enrolled in a manage care organization.
- Allows HCA to have rulemaking authority to implement the requirements for the Health Care Cost Transparency Board.
- Makes technical corrections to various provisions of the Revised Code of Washington relating to HCA.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** Julie Tran (786-7283)

**Background:** The Health Care Authority (HCA) is the largest health care purchaser in Washington State. HCA serves individuals through the state Medicaid program (Apple Health), the Public Employees Benefits Board, and School Employees Board programs. HCA also provides behavioral health services to all residents in Washington State, regardless of insurance. HCA reports that approximately 2.2 million people are enrolled in

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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.*

Apple Health.

Medicaid Managed Care. Managed care is a prepaid, comprehensive system of medical and health care delivery, including preventive, primary, specialty, and ancillary health services. Apple Health offers eligible families, children under age 19, pregnant women, certain blind or disabled persons, and low-income adults a complete medical benefits package.

Since January 1, 2020, all physical health, mental health, and substance use disorder services have been fully integrated in a ten regional service area managed care health system for most Medicaid clients through Apple Health. The managed care organizations (MCOs) must have a sufficient network of providers to provide adequate access to behavioral health services for the residents of their regional areas.

State Office of Behavioral Health Consumer Advocacy. In July 2022, the Department of Commerce established the State Office of Behavioral Health Consumer Advocacy (SOBHCA) to provide policy direction, and to contract with a private nonprofit organization (contracting advocacy organization) to provide behavioral health consumer advocacy services, as directed by SOBHCA. The behavioral health ombuds office was discontinued and replaced with SOBHCA.

The stated intent of the Legislature is that regional behavioral health ombuds programs be integrated into the statewide program, that regional ombuds be assessed and certified by the contracting advocacy organization as behavioral health consumer advocates, and that the SOBHCA provide regional ombuds programs with any additional training that certified behavioral health consumer advocates may need to carry out their responsibilities.

There must be a behavioral health consumer advocate office within the boundaries of the region served by each behavioral health administrative services organization. Medicaid managed care organizations must contract with the contracting advocacy organization for the provision of behavioral health consumer advocacy services and must reimburse the SOBHCA for behavioral health consumer advocacy services provided to their enrollees.

Health Care Cost Transparency Board. The Health Care Cost Transparency Board (Transparency Board) was established in 2020 to analyze total health care expenditures in Washington, identify trends in health care cost growth, and establish a health care cost growth benchmark. Total health care expenditures include all health care expenditures in the state by public and private sources. Health care cost growth is a measure of the annual percentage change in total health care expenditures in the state. The health care cost growth benchmark is the target percentage for health care cost growth in the state. The Transparency Board must identify health care providers and payers that exceed the health care cost growth benchmark.

The Transparency Board is supported by HCA and consists of 13 voting members representing state agencies, local governments, consumers, Taft-Hartley health benefit

plans, employers, persons who are actuaries or experts in health care economics, and an expert in health care financing. The Transparency Board has an advisory committee on data issues and an advisory committee of health care providers and carriers. The Transparency Board may establish other advisory committees.

**Summary of Bill:** State Office of Behavioral Health Consumer Advocacy. HCA must contract with the Department of Commerce for behavioral health consumer advocacy services delivered to individuals enrolled in a managed care organization by the advocacy organization selected by SOBHCA. The contract must require HCA to reimburse the Department of Commerce for the behavioral health advocacy services delivered to the individuals enrolled in a managed care organization.

Managed Care Organizations. A single definition is created for managed care organizations and other references in statute to managed care are amended and updated to match this term. "Managed care organization" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any other entity or combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act.

Additional Statutory Language Updates. The current statute language is amended to specify that the Washington State health information technology office is located within HCA and HCA is the state opioid treatment authority. HCA has rulemaking authority to implement the requirements for the Health Care Cost Transparency Board.

Technical corrections are made to various provisions of the Revised Code of Washington related to the HCA that:

- update references to "employees and schools employees" with "public employees";
- replace references from HCA "administrator" to HCA "director";
- correct an agency designation from Department of Social and Health Services (DSHS) to HCA for the prescription drug assistance program;
- amend the list of agencies included in the collaboration of the health care information systems to include the Department of Children, Youth, and Families;
- replace reference from "chemical dependency" to "substance use disorder" relating to the agreement between HCA and the Department of Social and Health Services (DSHS) for the administration of certain medical care services program;
- update the section relating to the health information exchange pilot to maintain the program, remove references to the term "pilot," and replaces terms, including "first health record banks" to "state electronic health record repositories," "banks" to "repositories," and "record banks" to "records service";
- change the reference from "persons with disabilities" to "individuals with disabilities" in a section requiring an annual report from DSHS on the number of medical

- assistance recipients and other reporting requirements;
- amend certain definitions including "employee" to remove the inclusion of "employees of the Washington State convention and trade center," remove the time-specific aspects of the definition for "employer group" that had recognized school districts and charter schools through December 31, 2019, and educational service districts through December 31, 2023, and add behavioral health to the definition of "state purchased health care";
  - decodify projects that are no longer active and have concluded, including the shared decision-making demonstration project and the Medicaid and state children's health insurance program demonstration project;
  - decodify a section related to the chronic care management report that was due to the Legislature by December 1, 2012;
  - decodify a section relating to inmate health care and require Department of Corrections (DOC) to consult with HCA to identify how DOC must develop a working plan to correspond to the health care reform measures requiring all departments to place all state purchased health services in a community-rated, single risk pool under the direct administrative authority of the state purchasing agent by July 1, 1997;
  - decodify a section in the state health care authority chapter that specifies that the chapter is not applicable to officers and employees of state convention and trade center and a reviser's note states that a majority of the referenced chapter for those specific officers and employees was repealed effect November 30, 2010;
  - repeal the American Indian Health Care Delivery Plan from the state health care authority chapter since that section is codified in two different chapters—HCA and Department of Health;
  - repeal the 1983 Prevention of Blindness Program that was transferred to HCA from DSHS during the 2011 designation of HCA as the Medicaid single state agency and transfer;
  - amend federal poverty level thresholds and other provisions to align with the Affordable Care Act, including the family planning services coverage, the family planning waiver program request, and children's affordable health coverage;
  - amend the section relating to Medicaid services contract to remove references to the regional support network and adds cross-references to contractors providing behavioral health services as defined under the behavioral health services for minors chapter;
  - repeal the continuation of employee, spouse, or covered dependent that become ineligible under the state plan and the authority for HCA to offer a Tricare supplemental insurance policy as it interferes with federal laws and guidelines;
  - add that the HCA Director may appoint personnel to carry out the provisions of additional chapters, including mental illness, the Community Behavioral Health Services Act, and behavioral health services for minors;
  - correct an erroneous subsection reference in a statute related to the waiver of reimbursement limit for qualified health plans;
  - decodify a section reference to the definition "community public health and safety

- networks" in a statute related to Community Health Care Collaborative Grant program since the referenced-section has been repealed effective June 30, 2012;
- add that HCA may issue an order to withhold and deliver property after service of a notice of debt for an overpayment as provided in a notice of overpayment of assistance, and now also to a notice of overpayment to the vendor;
  - corrects an erroneous subsection reference in a statute related to allowing HCA to file a lien against real property due to the referenced section being alphabetized;
  - corrects an erroneous section reference in a statute related to a report to the Legislature on the incorporation of performance measures into contracts with service coordination organizations;
  - update the section reference on overpayments to vendors relating to liability for receipt of excess payments;
  - replaces references to "osteopathic physicians' assistants" with "physician assistants" in the statute definition relating to the use of substitute providers;
  - decodify a section reference in a statute related to unemployment compensation for Apple Health for kids since the referenced-section was repealed in 2021;
  - decodify a chapter reference in the statute related to the drug reimbursement policy recommendations since there is only one section in that chapter and it has already been recodified into another chapter;
  - decodify completed submission deadlines, including the 2011 family planning waiver program request, the 2012 cost-benefit analysis report on per capita expenditures for a cohort of clients receiving smoking cessation benefits, the 2003 report on financing options and recommendations for the prescription drug assistance program, the 2008 and 2010 report on outcome goals for the employee health program, the 2014 Medicaid services contract report on contractual opportunities and impacts on patient access to timely care, and the 2007 and 2009 status report on coordinating strategies for asthma, diabetes, heart disease, and other chronic diseases as it relates to efforts for uniform policies across state purchased health care programs;
  - decodify previous time-specific legislative directives for the state health care authority administrative account during the 2013-2015, 2017-2019, and 2019-2021 fiscal biennia and following the start of the school employee's benefits board's benefits provision on January 1, 2020;
  - decodify previous time-specific legislative directive relating to the Medicaid fraud penalty account directing how money should be spent during the 2011-2013 and 2013-2015 biennia; and
  - decodify a requirement to use a 2005 report on health information technology to inform the HCA Director's strategy for adopting a health information technology systems.

**Appropriation:** None.

**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:** PRO: This bill cleans up and modernizes language in statutes pertaining to HCA. The agency went line-by-line, noted which statutes needed to be updated, and removed anything that failed to meet the goal of being policy agnostic. The omission of the rulemaking authority to implement Health Care Cost Transparency Board was deemed to be an oversight and the agency does need that authority to set up processes and procedures for data sharing. CMS determined that the payment arrangement for the behavioral health ombuds program was not allowable and directed HCA to move that payment from managed care to a Medicaid administrative expense. The bill before you includes a provision directing HCA to contract with the Department of Commerce for behavioral health consumer advocacy services delivered to individuals enrolled in a managed care organization by the selected advocacy organization. Department of Commerce provides a number of services and grants to organizations and communities across the state. This will drive a little fiscal impact.

**Persons Testifying:** PRO: Senator Kevin Van De Wege, Prime Sponsor; Shawn O'Neill, Washington State Health Care Authority; Dave Pringle, Dept. of Commerce.

**Persons Signed In To Testify But Not Testifying:** No one.