
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1713

State of Washington

65th Legislature

2017 Regular Session

By House Appropriations (originally sponsored by Representatives Senn, Dent, Kagi, and Kilduff)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to implementing recommendations from the
2 children's mental health work group; amending RCW 74.09.495 and
3 74.09.520; adding a new section to chapter 74.09 RCW; adding a new
4 section to chapter 43.215 RCW; adding a new section to chapter
5 28A.630 RCW; adding new sections to chapter 71.24 RCW; adding a new
6 section to chapter 28B.30 RCW; creating a new section; providing
7 contingent effective dates; and providing an expiration date.

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

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

19 The legislature further finds that until mental health and
20 physical health services are fully integrated in the year 2020,
21 children who are eligible for medicaid services and require mental

1 health treatment should receive coordinated mental health and
2 physical health services to the fullest extent possible.

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

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

14 Therefore, the legislature intends to implement recommendations
15 from the children's mental health work group, as reported in December
16 2016, in order to improve mental health care access for children and
17 their families through the early learning, K-12 education, and health
18 care systems. The legislature further intends to encourage providers
19 to use behavioral health therapies and other therapies that are
20 empirically supported or evidence-based and only prescribe
21 medications for children and youth as a last resort.

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 (a) the managed health care system as defined in RCW
28 74.09.325 and (b) tribal organizations providing health care
29 services. The authority must ensure the child receives treatment and
30 appropriate care based on their assessed needs, regardless of whether
31 the referral occurred through primary care, school-based services, or
32 another practitioner.

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

1 (a) Follow up with individuals to ensure an appointment has been
2 secured;

3 (b) Coordinate with and report back to primary care provider
4 offices on individual treatment plans and medication management, in
5 accordance with patient confidentiality laws;

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

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

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

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

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

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

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

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

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

37 (2) The report must also include the number of children's mental
38 health providers available in the previous year, the languages spoken

1 by those providers, and the overall percentage of children's mental
2 health providers who were actively accepting new patients.

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

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

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

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

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

37 (b) The rules shall require clients be assessed as having a
38 medical condition requiring assistance with personal care tasks.

1 Plans of care for clients requiring health-related consultation for
2 assessment and service planning may be reviewed by a nurse.

3 (c) The department shall determine by rule which clients have a
4 health-related assessment or service planning need requiring
5 registered nurse consultation or review. This definition may include
6 clients that meet indicators or protocols for review, consultation,
7 or visit.

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

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

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

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

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

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

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

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

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

38 (b) Provide the services directly until a qualified contractor
39 can be found.

1 (7) Subject to the availability of amounts appropriated for this
2 specific purpose, the authority may offer medicare part D
3 prescription drug copayment coverage to full benefit dual eligible
4 beneficiaries.

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

10 (9) Subject to the availability of amounts appropriated for this
11 specific purpose, effective January 1, 2018, the authority shall
12 require provider payment for annual depression screening for youth
13 ages twelve through eighteen as recommended by the bright futures
14 guidelines of the American academy of pediatrics, as they existed on
15 January 1, 2017. Providers may include, but are not limited to,
16 primary care providers, public health nurses, and other providers in
17 a clinical setting. This requirement is subject to the availability
18 of funds appropriated for this specific purpose.

19 (10) Subject to the availability of amounts appropriated for this
20 specific purpose, effective January 1, 2018, the authority shall
21 require provider payment for maternal depression screening for
22 mothers of children ages birth to six months. This requirement is
23 subject to the availability of funds appropriated for this specific
24 purpose.

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

27 (1) Subject to the availability of amounts appropriated for this
28 specific purpose, the department shall establish a child care
29 consultation program linking child care providers with evidence-
30 based, trauma-informed, and best practice resources regarding caring
31 for infants and young children who present behavioral concerns or
32 symptoms of trauma. The department may contract with an entity with
33 expertise in child development and early learning programs in order
34 to operate the child care consultation program.

35 (2) In establishing and operating the program, the department or
36 contracted entity shall: (a) Assist child care providers in
37 recognizing the signs and symptoms of trauma in children; (b) provide
38 support and guidance to child care staff; (c) consult and coordinate
39 with parents, other caregivers, and experts or practitioners involved

1 with the care and well-being of the young children; and (d) provide
2 referrals for children who need additional services.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.630
4 RCW to read as follows:

5 (1) Subject to the availability of amounts appropriated for this
6 specific purpose, the office of the superintendent of public
7 instruction shall establish a competitive application process to
8 designate two educational service districts in which to pilot one
9 lead staff person for children's mental health and substance use
10 disorder services.

11 (2) The office must select two educational service districts as
12 pilot sites by October 1, 2017. When selecting the pilot sites, the
13 office must endeavor to achieve a balanced geographic distribution of
14 sites east of the crest of the Cascade mountains and west of the
15 crest of the Cascade mountains.

16 (3) The lead staff person for each pilot site must have the
17 primary responsibility for:

18 (a) Coordinating medicaid billing for schools and school
19 districts in the educational service district;

20 (b) Facilitating partnerships with community mental health
21 agencies, providers of substance use disorder treatment, and other
22 providers;

23 (c) Sharing service models;

24 (d) Seeking public and private grant funding;

25 (e) Ensuring the adequacy of other system level supports for
26 students with mental health and substance use disorder treatment
27 needs; and

28 (f) Collaborating with the other selected project and with the
29 office of the superintendent of public instruction.

30 (4) The office of the superintendent of public instruction must
31 report on the results of the two pilot projects to the governor and
32 the appropriate committees of the legislature in accordance with RCW
33 43.01.036 by December 1, 2019. The report must also include:

34 (a) A case study of an educational service district that is
35 successfully delivering and coordinating children's mental health
36 activities and services. Activities and services may include but are
37 not limited to medicaid billing, facilitating partnerships with
38 community mental health agencies, and seeking and securing public and
39 private funding; and

1 (b) Recommendations regarding whether to continue or make
2 permanent the pilot projects and how the projects might be replicated
3 in other educational service districts.

4 (5) This section expires January 1, 2020.

5 NEW SECTION. **Sec. 7.** A new section is added to chapter 71.24
6 RCW to read as follows:

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

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

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

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

20 (b) For purposes of this section, reimbursement of store and
21 forward technology is available only for those services specified in
22 the negotiated agreement between the behavioral health organization
23 and provider.

24 (3) An originating site for a telemedicine behavioral health
25 service subject to subsection (1) of this section means an
26 originating site as defined in rule by the department or the health
27 care authority.

28 (4) Any originating site, other than a home, under subsection (3)
29 of this section may charge a facility fee for infrastructure and
30 preparation of the patient. Reimbursement must be subject to a
31 negotiated agreement between the originating site and the behavioral
32 health organization. A distant site or any other site not identified
33 in subsection (3) of this section may not charge a facility fee.

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

37 (6) A behavioral health organization may subject coverage of a
38 telemedicine or store and forward technology behavioral health
39 service under subsection (1) of this section to all terms and

1 conditions of the behavioral health organization in which the covered
2 person is enrolled, including, but not limited to, utilization
3 review, prior authorization, deductible, copayment, or coinsurance
4 requirements that are applicable to coverage of a comparable
5 behavioral health care service provided in person.

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

8 (a) An originating site for professional fees;

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

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

13 (8) For purposes of this section:

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

17 (b) "Hospital" means a facility licensed under chapter 70.41,
18 71.12, or 72.23 RCW;

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

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

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

28 (f) "Telemedicine" means the delivery of health care or
29 behavioral health services through the use of interactive audio and
30 video technology, permitting real-time communication between the
31 patient at the originating site and the provider, for the purpose of
32 diagnosis, consultation, or treatment. For purposes of this section
33 only, "telemedicine" does not include the use of audio-only
34 telephone, facsimile, or email.

35 (9) The department must, in consultation with the health care
36 authority, adopt rules as necessary to implement the provisions of
37 this section.

38 NEW SECTION. **Sec. 8.** A new section is added to chapter 71.24
39 RCW to read as follows:

1 (1) Upon initiation or renewal of a contract with the authority,
2 a behavioral health organization shall reimburse a provider for a
3 behavioral health service provided to a covered person who is under
4 eighteen years old through telemedicine or store and forward
5 technology if:

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

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

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

14 (b) For purposes of this section, reimbursement of store and
15 forward technology is available only for those services specified in
16 the negotiated agreement between the behavioral health organization
17 and provider.

18 (3) An originating site for a telemedicine behavioral health
19 service subject to subsection (1) of this section means an
20 originating site as defined in rule by the department or the
21 authority.

22 (4) Any originating site, other than a home, under subsection (3)
23 of this section may charge a facility fee for infrastructure and
24 preparation of the patient. Reimbursement must be subject to a
25 negotiated agreement between the originating site and the behavioral
26 health organization. A distant site or any other site not identified
27 in subsection (3) of this section may not charge a facility fee.

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

31 (6) A behavioral health organization may subject coverage of a
32 telemedicine or store and forward technology behavioral health
33 service under subsection (1) of this section to all terms and
34 conditions of the behavioral health organization in which the covered
35 person is enrolled, including, but not limited to, utilization
36 review, prior authorization, deductible, copayment, or coinsurance
37 requirements that are applicable to coverage of a comparable
38 behavioral health care service provided in person.

39 (7) This section does not require a behavioral health
40 organization to reimburse:

- 1 (a) An originating site for professional fees;
- 2 (b) A provider for a behavioral health service that is not a
3 covered benefit under the behavioral health organization; or
- 4 (c) An originating site or provider when the site or provider is
5 not a contracted provider with the behavioral health organization.
- 6 (8) For purposes of this section:
- 7 (a) "Distant site" means the site at which a physician or other
8 licensed provider, delivering a professional service, is physically
9 located at the time the service is provided through telemedicine;
- 10 (b) "Hospital" means a facility licensed under chapter 70.41,
11 71.12, or 72.23 RCW;
- 12 (c) "Originating site" means the physical location of a patient
13 receiving behavioral health services through telemedicine;
- 14 (d) "Provider" has the same meaning as in RCW 48.43.005;
- 15 (e) "Store and forward technology" means use of an asynchronous
16 transmission of a covered person's medical or behavioral health
17 information from an originating site to the provider at a distant
18 site which results in medical or behavioral health diagnosis and
19 management of the covered person, and does not include the use of
20 audio-only telephone, facsimile, or email; and
- 21 (f) "Telemedicine" means the delivery of health care or
22 behavioral health services through the use of interactive audio and
23 video technology, permitting real-time communication between the
24 patient at the originating site and the provider, for the purpose of
25 diagnosis, consultation, or treatment. For purposes of this section
26 only, "telemedicine" does not include the use of audio-only
27 telephone, facsimile, or email.
- 28 (9) The authority must adopt rules as necessary to implement the
29 provisions of this section.

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

32 Subject to the availability of amounts appropriated for this
33 specific purpose, Washington State University shall offer one twenty-
34 four month residency position that is approved by the accreditation
35 council for graduate medical education to one resident specializing
36 in child and adolescent psychiatry. The residency must include a
37 minimum of twelve months of training in settings where children's
38 mental health services are provided under the supervision of

1 experienced psychiatric consultants and must be located east of the
2 crest of the Cascade mountains.

3 NEW SECTION. **Sec. 10.** Section 7 of this act takes effect
4 January 1, 2018, but only if neither Substitute House Bill No. 1388
5 (including any later amendments or substitutes) nor Substitute Senate
6 Bill No. 5259 (including any later amendments or substitutes) is
7 signed into law by the governor by the effective date of this
8 section.

9 NEW SECTION. **Sec. 11.** Section 8 of this act takes effect only
10 if Substitute House Bill No. 1388 (including any later amendments or
11 substitutes) or Substitute Senate Bill No. 5259 (including any later
12 amendments or substitutes) is signed into law by the governor by the
13 effective date of this section.

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