

---

**SECOND SUBSTITUTE HOUSE BILL 1515**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House 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)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to contracting and procurement requirements for  
2 behavioral health services in medical assistance programs; amending  
3 RCW 74.09.871 and 71.24.861; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Medicaid enrollees in Washington are challenged with  
7 accessing needed behavioral health care. According to the Washington  
8 state department of social and health services, as of 2021, among  
9 medicaid enrollees with an identified mental health need, only 50  
10 percent of adults and 66 percent of youth received treatment, while  
11 among medicaid enrollees with an identified substance use disorder  
12 need, only 37 percent of adults and 23 percent of youth received  
13 treatment. Furthermore, the national council for mental wellbeing's  
14 2022 access to care survey found that 43 percent of adults in the  
15 United States who say they need mental health or substance use care  
16 did not receive that care, and they face numerous barriers to  
17 receiving needed treatment. Lack of necessary care can cause  
18 behavioral health conditions to deteriorate and crises to escalate,  
19 driving increasing use of intensive services such as inpatient care  
20 and involuntary treatment. As a result, the behavioral health system  
21 is reaching a crisis point in communities across the state.

1 (b) As of December 2022, 1,953,153 Washington residents rely on  
2 apple health managed care organizations to provide for their physical  
3 and behavioral health needs. During the integration of physical and  
4 behavioral health care pursuant to chapter 225, Laws of 2014, the  
5 health care authority most recently procured managed care services in  
6 2018 and selected five managed care organizations to serve as  
7 Washington's apple health plans to provide for the physical and  
8 behavioral health care needs of medicaid enrollees. The health care  
9 authority has begun considering when to conduct a new procurement for  
10 managed care organizations, including an allowance for possible new  
11 entrants that do not currently serve Washington's medicaid  
12 population.

13 (c) Medicaid managed care procurement presents a need and an  
14 opportunity for the state to reset expectations for managed care  
15 organizations related to behavioral health services to ensure that  
16 Washington residents are being served by qualified and experienced  
17 health plans that can deliver on the access to care and quality of  
18 care that residents need and deserve.

19 (2) It is the intent of the legislature to seize this opportunity  
20 to address ongoing challenges Washington's medicaid enrollees face in  
21 accessing behavioral health care. The legislature intends to  
22 establish robust new standards defining the levels of medicaid-funded  
23 behavioral health service capacity and resources that are adequate to  
24 meet medicaid enrollees' treatment needs; to ensure that managed care  
25 organizations that serve Washington's medicaid enrollees have a track  
26 record of success in delivering a broad range of behavioral health  
27 care services to safety net populations; and to advance payment  
28 structures and provider network delivery models that improve  
29 equitable access, promote integration of care, and deliver on  
30 outcomes.

31 **Sec. 2.** RCW 74.09.871 and 2019 c 325 s 4006 are each amended to  
32 read as follows:

33 (1) Any agreement or contract by the authority to provide  
34 behavioral health services as defined under RCW 71.24.025 to persons  
35 eligible for benefits under medicaid, Title XIX of the social  
36 security act, and to persons not eligible for medicaid must include  
37 the following:

38 (a) Contractual provisions consistent with the intent expressed  
39 in RCW 71.24.015 and 71.36.005;

1 (b) Standards regarding the quality of services to be provided,  
2 including increased use of evidence-based, research-based, and  
3 promising practices, as defined in RCW 71.24.025;

4 (c) Accountability for the client outcomes established in RCW  
5 71.24.435, 70.320.020, and 71.36.025 and performance measures linked  
6 to those outcomes;

7 (d) Standards requiring behavioral health administrative services  
8 organizations and managed care organizations to maintain a network of  
9 appropriate providers that is supported by written agreements  
10 sufficient to provide adequate access to all services covered under  
11 the contract with the authority and to protect essential behavioral  
12 health system infrastructure and capacity, including a continuum of  
13 substance use disorder services;

14 (e) Provisions to require that medically necessary substance use  
15 disorder and mental health treatment services be available to  
16 clients;

17 (f) Standards requiring the use of behavioral health service  
18 provider reimbursement methods that incentivize improved performance  
19 with respect to the client outcomes established in RCW 71.24.435 and  
20 71.36.025, integration of behavioral health and primary care services  
21 at the clinical level, and improved care coordination for individuals  
22 with complex care needs;

23 (g) Standards related to the financial integrity of the  
24 contracting entity. This subsection does not limit the authority of  
25 the authority to take action under a contract upon finding that a  
26 contracting entity's financial status jeopardizes the contracting  
27 entity's ability to meet its contractual obligations;

28 (h) Mechanisms for monitoring performance under the contract and  
29 remedies for failure to substantially comply with the requirements of  
30 the contract including, but not limited to, financial deductions,  
31 termination of the contract, receivership, reprocurement of the  
32 contract, and injunctive remedies;

33 (i) Provisions to maintain the decision-making independence of  
34 designated crisis responders; and

35 (j) Provisions stating that public funds appropriated by the  
36 legislature may not be used to promote or deter, encourage, or  
37 discourage employees from exercising their rights under Title 29,  
38 chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

39 (2) At least six months prior to releasing a medicaid integrated  
40 managed care procurement, but no later than January 1, 2025, the

1 authority shall adopt standards for the behavioral health provider  
2 networks maintained by managed care organizations pursuant to  
3 subsection (1)(d) of this section. The standards shall require a  
4 network that ensures access to appropriate and timely behavioral  
5 health services for the enrollees of the managed care organization  
6 who live within the regional service area. At a minimum, these  
7 standards must address each behavioral health services type covered  
8 by the medicaid integrated managed care contract. This includes, but  
9 is not limited to: Outpatient, inpatient, and residential levels of  
10 care for adults and youth with a mental health disorder; outpatient,  
11 inpatient, and residential levels of care for adults and youth with a  
12 substance use disorder; crisis and stabilization services; providers  
13 of medication for opioid use disorders; specialty care; other  
14 facility-based services; and other providers as determined by the  
15 authority through this process. The authority shall apply the  
16 standards regionally and shall incorporate behavioral health system  
17 needs and considerations as follows:

18 (a) Include a process for regular updates no less than once per  
19 calendar year;

20 (b) Provide for participation from counties and behavioral health  
21 providers in both initial development and subsequent updates;

22 (c) Account for the regional service area's population;  
23 prevalence of behavioral health conditions; types of minimum  
24 behavioral health services and service capacity offered by providers  
25 in the regional service area; number and geographic proximity of  
26 providers in the regional service area; an assessment of the needs or  
27 gaps in the region; and availability of culturally specific services  
28 and providers in the regional service area to address the needs of  
29 communities that experience cultural barriers to health care  
30 including but not limited to communities of color and the LGBTQ+  
31 community;

32 (d) Include a structure for monitoring compliance with provider  
33 network standards and timely access to the services;

34 (e) Consider how statewide services, such as residential  
35 treatment facilities, are utilized cross-regionally; and

36 (f) Consider how the standards would impact requirements for  
37 behavioral health administrative service organizations.

38 (3) Before releasing a medicaid integrated managed care  
39 procurement, the authority shall identify options that minimize  
40 provider administrative burden, including the potential to limit the

1 number of managed care organizations that operate in a regional  
2 service area.

3 (4) The following factors must be given significant weight in any  
4 medicaid integrated managed care procurement process under this  
5 section:

6 (a) Demonstrated commitment and experience in serving low-income  
7 populations;

8 (b) Demonstrated commitment and experience serving persons who  
9 have mental illness, substance use disorders, or co-occurring  
10 disorders;

11 (c) Demonstrated commitment to and experience with partnerships  
12 with county and municipal criminal justice systems, housing services,  
13 and other critical support services necessary to achieve the outcomes  
14 established in RCW 71.24.435, 70.320.020, and 71.36.025;

15 (d) The ability to provide for the crisis service needs of  
16 medicaid enrollees, consistent with the degree to which such services  
17 are funded;

18 (e) Recognition that meeting enrollees' physical and behavioral  
19 health care needs is a shared responsibility of contracted behavioral  
20 health administrative services organizations, managed care  
21 organizations, service providers, the state, and communities;

22 ~~((e))~~ (f) Consideration of past and current performance and  
23 participation in other state or federal behavioral health programs as  
24 a contractor; ~~((and~~

25 ~~(f))~~ (g) The ability to meet requirements established by the  
26 authority ~~((3))~~;

27 (h) The extent to which a managed care organization's approach to  
28 contracting simplifies billing and contracting burdens for community  
29 behavioral health provider agencies, which may include but is not  
30 limited to a delegation arrangement with a provider network that  
31 leverages local, federal, or philanthropic funding to enhance the  
32 effectiveness of medicaid-funded integrated care services and promote  
33 medicaid clients' access to a system of services that addresses  
34 additional social support services and social determinants of health  
35 as defined in RCW 43.20.025;

36 (i) Demonstrated prior national or in-state experience with a  
37 full continuum of behavioral health services that are substantially  
38 similar to the behavioral health services covered under the  
39 Washington medicaid state plan, including evidence through past and  
40 current data on performance, quality, and outcomes; and

1 (j) Demonstrated commitment by managed care organizations to the  
2 use of alternative pricing and payment structures between a managed  
3 care organization and its behavioral health services providers,  
4 including provider networks described in subsection (b) of this  
5 section, and between a managed care organization and a behavioral  
6 administrative service organization, in any of their agreements or  
7 contracts under this section, which may include but are not limited  
8 to:

9 (i) Value-based purchasing efforts consistent with the  
10 authority's value-based purchasing strategy, such as capitated  
11 payment arrangements, comprehensive population-based payment  
12 arrangements, or case rate arrangements; or

13 (ii) Payment methods that secure a sufficient amount of ready and  
14 available capacity for levels of care that require staffing 24 hours  
15 per day, 365 days per year, to serve anyone in the regional service  
16 area with a demonstrated need for the service at all times,  
17 regardless of fluctuating utilization.

18 (5) The authority may use existing cross-system outcome data such  
19 as the outcomes and related measures under subsection (4)(c) of this  
20 section and chapter 338, Laws of 2013, to determine that the  
21 alternative pricing and payment structures referenced in subsection  
22 (4)(j) of this section have advanced community behavioral health  
23 system outcomes more effectively than a fee-for-service model may  
24 have been expected to deliver.

25 (6)(a) The authority shall urge managed care organizations to  
26 establish, continue, or expand delegation arrangements with a  
27 provider network that exists on the effective date of this section  
28 and that leverages local, federal, or philanthropic funding to  
29 enhance the effectiveness of medicaid-funded integrated care services  
30 and promote medicaid clients' access to a system of services that  
31 addresses additional social support services and social determinants  
32 of health as defined in RCW 43.20.025. Such delegation arrangements  
33 must meet the requirements of the integrated managed care contract  
34 and the national committee for quality assurance accreditation  
35 standards.

36 (b) The authority shall recognize and support, and may not limit  
37 or restrict, a delegation arrangement that a managed care  
38 organization and a provider network described in (a) of this  
39 subsection have agreed upon, provided such arrangement meets the  
40 requirements of the integrated managed care contract and the national

1 committee for quality assurance accreditation standards. The  
2 authority may periodically review such arrangements for effectiveness  
3 according to the requirements of the integrated managed care contract  
4 and the national committee for quality assurance accreditation  
5 standards.

6 (c) Managed care organizations and the authority may evaluate  
7 whether to establish or support future delegation arrangements with  
8 any additional provider networks that may be created after the  
9 effective date of this section, based on the requirements of the  
10 integrated managed care contract and the national committee for  
11 quality assurance accreditation standards.

12 (7) The authority shall expand the types of behavioral health  
13 crisis services that can be funded with medicaid to the maximum  
14 extent allowable under federal law, including seeking approval from  
15 the centers for medicare and medicaid services for amendments to the  
16 medicaid state plan or medicaid state directed payments that support  
17 the 24 hours per day, 365 days per year capacity of the crisis  
18 delivery system when necessary to achieve this expansion.

19 (8) The authority shall develop contracting methods that increase  
20 managed care organizations' accountability when their enrollees  
21 require long-term involuntary inpatient behavioral health treatment  
22 and shall explore opportunities to maximize medicaid funding as  
23 appropriate.

24 (9) In recognition of the value of community input and consistent  
25 with past procurement practices, the authority shall include county  
26 and behavioral health provider representatives in the development of  
27 any medicaid integrated managed care procurement process. This shall  
28 include, at a minimum, two representatives identified by the  
29 association of county human services and two representatives  
30 identified by the Washington council for behavioral health to  
31 participate in the review and development of procurement documents.

32 (10) For purposes of purchasing behavioral health services and  
33 medical care services for persons eligible for benefits under  
34 medicaid, Title XIX of the social security act and for persons not  
35 eligible for medicaid, the authority must use regional service areas.  
36 The regional service areas must be established by the authority as  
37 provided in RCW 74.09.870.

38 ~~((4))~~ (11) Consideration must be given to using multiple-  
39 biennia contracting periods.

1        (~~(5)~~) (12) Each behavioral health administrative services  
2 organization operating pursuant to a contract issued under this  
3 section shall serve clients within its regional service area who meet  
4 the authority's eligibility criteria for mental health and substance  
5 use disorder services within available resources.

6        **Sec. 3.** RCW 71.24.861 and 2019 c 325 s 1047 are each amended to  
7 read as follows:

8        (1) The legislature finds that ongoing coordination between state  
9 agencies, the counties, and the behavioral health administrative  
10 services organizations is necessary to coordinate the behavioral  
11 health system. To this end, the authority shall establish a committee  
12 to meet quarterly to address systemic issues, including but not  
13 limited to the data-sharing needs of behavioral health system  
14 partners.

15        (2) The committee established in subsection (1) of this section  
16 must be convened by the authority, meet quarterly, and include  
17 representatives from:

- 18        (a) The authority;
- 19        (b) The department of social and health services;
- 20        (c) The department;
- 21        (d) The office of the governor;
- 22        (e) One representative from the behavioral health administrative  
23 services organization per regional service area; and
- 24        (f) One county representative per regional service area.

25        NEW SECTION. **Sec. 4.** If specific funding for the purposes of  
26 this act, referencing this act by bill or chapter number, is not  
27 provided by June 30, 2023, in the omnibus appropriations act, this  
28 act is null and void.

--- END ---