

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1515**

Chapter 292, Laws of 2023

68th Legislature  
2023 Regular Session

MEDICAL ASSISTANCE—BEHAVIORAL HEALTH SERVICES—MANAGED CARE  
CONTRACTING AND PROCUREMENT

EFFECTIVE DATE: July 23, 2023

Passed by the House April 13, 2023  
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate April 7, 2023  
Yeas 49 Nays 0

DENNY HECK

**President of the Senate**

Approved May 4, 2023 3:18 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1515** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 5, 2023

**Secretary of State  
State of Washington**

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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1515**

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AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

**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 (3) The legislature finds that increased access to behavioral  
32 health services for American Indians and Alaska Natives, children in  
33 foster care, and the aged, blind, and disabled through the  
34 preservation and enhancement of the fee-for-service system is also  
35 critical to reducing health disparities among these vulnerable  
36 populations. The legislature also intends to increase access to  
37 timely and robust behavioral health services for American Indians and  
38 Alaska Natives, children in foster care, and the aged, blind, and  
39 disabled, in the fee-for-service system they access.

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

3       (1) Any agreement or contract by the authority to provide  
4 behavioral health services as defined under RCW 71.24.025 to persons  
5 eligible for benefits under medicaid, Title XIX of the social  
6 security act, and to persons not eligible for medicaid must include  
7 the following:

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

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

13       (c) Accountability for the client outcomes established in RCW  
14 71.24.435, 70.320.020, and 71.36.025 and performance measures linked  
15 to those outcomes;

16       (d) Standards requiring behavioral health administrative services  
17 organizations and managed care organizations to maintain a network of  
18 appropriate providers that is supported by written agreements  
19 sufficient to provide adequate access to all services covered under  
20 the contract with the authority and to protect essential behavioral  
21 health system infrastructure and capacity, including a continuum of  
22 substance use disorder services;

23       (e) Provisions to require that medically necessary substance use  
24 disorder and mental health treatment services be available to  
25 clients;

26       (f) Standards requiring the use of behavioral health service  
27 provider reimbursement methods that incentivize improved performance  
28 with respect to the client outcomes established in RCW 71.24.435 and  
29 71.36.025, integration of behavioral health and primary care services  
30 at the clinical level, and improved care coordination for individuals  
31 with complex care needs;

32       (g) Standards related to the financial integrity of the  
33 contracting entity. This subsection does not limit the authority of  
34 the authority to take action under a contract upon finding that a  
35 contracting entity's financial status jeopardizes the contracting  
36 entity's ability to meet its contractual obligations;

37       (h) Mechanisms for monitoring performance under the contract and  
38 remedies for failure to substantially comply with the requirements of  
39 the contract including, but not limited to, financial deductions,

1 termination of the contract, receivership, reprocurement of the  
2 contract, and injunctive remedies;

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

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

9 (2) At least six months prior to releasing a medicaid integrated  
10 managed care procurement, but no later than January 1, 2025, the  
11 authority shall adopt statewide network adequacy standards that are  
12 assessed on a regional basis for the behavioral health provider  
13 networks maintained by managed care organizations pursuant to  
14 subsection (1)(d) of this section. The standards shall require a  
15 network that ensures access to appropriate and timely behavioral  
16 health services for the enrollees of the managed care organization  
17 who live within the regional service area. At a minimum, these  
18 standards must address each behavioral health services type covered  
19 by the medicaid integrated managed care contract. This includes, but  
20 is not limited to: Outpatient, inpatient, and residential levels of  
21 care for adults and youth with a mental health disorder; outpatient,  
22 inpatient, and residential levels of care for adults and youth with a  
23 substance use disorder; crisis and stabilization services; providers  
24 of medication for opioid use disorders; specialty care; other  
25 facility-based services; and other providers as determined by the  
26 authority through this process. The authority shall apply the  
27 standards regionally and shall incorporate behavioral health system  
28 needs and considerations as follows:

29 (a) Include a process for an annual review of the network  
30 adequacy standards;

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

33 (c) Account for the regional service area's population;  
34 prevalence of behavioral health conditions; types of minimum  
35 behavioral health services and service capacity offered by providers  
36 in the regional service area; number and geographic proximity of  
37 providers in the regional service area; an assessment of the needs or  
38 gaps in the region; and availability of culturally specific services  
39 and providers in the regional service area to address the needs of  
40 communities that experience cultural barriers to health care

1 including but not limited to communities of color and the LGBTQ+  
2 community;

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

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

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

9 (3) Before releasing a medicaid integrated managed care  
10 procurement, the authority shall identify options that minimize  
11 provider administrative burden, including the potential to limit the  
12 number of managed care organizations that operate in a regional  
13 service area.

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

17 (a) Demonstrated commitment and experience in serving low-income  
18 populations;

19 (b) Demonstrated commitment and experience serving persons who  
20 have mental illness, substance use disorders, or co-occurring  
21 disorders;

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

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

29 (e) Recognition that meeting enrollees' physical and behavioral  
30 health care needs is a shared responsibility of contracted behavioral  
31 health administrative services organizations, managed care  
32 organizations, service providers, the state, and communities;

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

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

38 (h) The extent to which a managed care organization's approach to  
39 contracting simplifies billing and contracting burdens for community  
40 behavioral health provider agencies, which may include but is not

1 limited to a delegation arrangement with a provider network that  
2 leverages local, federal, or philanthropic funding to enhance the  
3 effectiveness of medicaid-funded integrated care services and promote  
4 medicaid clients' access to a system of services that addresses  
5 additional social support services and social determinants of health  
6 as defined in RCW 43.20.025;

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

12 (j) Demonstrated commitment by managed care organizations to the  
13 use of alternative pricing and payment structures between a managed  
14 care organization and its behavioral health services providers,  
15 including provider networks described in subsection (b) of this  
16 section, and between a managed care organization and a behavioral  
17 administrative service organization, in any of their agreements or  
18 contracts under this section, which may include but are not limited  
19 to:

20 (i) Value-based purchasing efforts consistent with the  
21 authority's value-based purchasing strategy, such as capitated  
22 payment arrangements, comprehensive population-based payment  
23 arrangements, or case rate arrangements; or

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

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

36 (6)(a) The authority shall urge managed care organizations to  
37 establish, continue, or expand delegation arrangements with a  
38 provider network that exists on the effective date of this section  
39 and that leverages local, federal, or philanthropic funding to  
40 enhance the effectiveness of medicaid-funded integrated care services

1 and promote medicaid clients' access to a system of services that  
2 addresses additional social support services and social determinants  
3 of health as defined in RCW 43.20.025. Such delegation arrangements  
4 must meet the requirements of the integrated managed care contract  
5 and the national committee for quality assurance accreditation  
6 standards.

7 (b) The authority shall recognize and support, and may not limit  
8 or restrict, a delegation arrangement that a managed care  
9 organization and a provider network described in (a) of this  
10 subsection have agreed upon, provided such arrangement meets the  
11 requirements of the integrated managed care contract and the national  
12 committee for quality assurance accreditation standards. The  
13 authority may periodically review such arrangements for effectiveness  
14 according to the requirements of the integrated managed care contract  
15 and the national committee for quality assurance accreditation  
16 standards.

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

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

30 (8) The authority shall, in consultation with managed care  
31 organizations, review reports and recommendations of the involuntary  
32 treatment act work group established pursuant to section 103, chapter  
33 302, Laws of 2020 and develop a plan for adding contract provisions  
34 that increase managed care organizations' accountability when their  
35 enrollees require long-term involuntary inpatient behavioral health  
36 treatment and shall explore opportunities to maximize medicaid  
37 funding as appropriate.

38 (9) In recognition of the value of community input and consistent  
39 with past procurement practices, the authority shall include county  
40 and behavioral health provider representatives in the development of



1 any medicaid integrated managed care procurement process. This shall  
2 include, at a minimum, two representatives identified by the  
3 association of county human services and two representatives  
4 identified by the Washington council for behavioral health to  
5 participate in the review and development of procurement documents.

6 (10) For purposes of purchasing behavioral health services and  
7 medical care services for persons eligible for benefits under  
8 medicaid, Title XIX of the social security act and for persons not  
9 eligible for medicaid, the authority must use regional service areas.  
10 The regional service areas must be established by the authority as  
11 provided in RCW 74.09.870.

12 ~~((4))~~ (11) Consideration must be given to using multiple-  
13 biennia contracting periods.

14 ~~((5))~~ (12) Each behavioral health administrative services  
15 organization operating pursuant to a contract issued under this  
16 section shall serve clients within its regional service area who meet  
17 the authority's eligibility criteria for mental health and substance  
18 use disorder services within available resources.

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

21 (1) The legislature finds that ongoing coordination between state  
22 agencies, the counties, and the behavioral health administrative  
23 services organizations is necessary to coordinate the behavioral  
24 health system. To this end, the authority shall establish a committee  
25 to meet quarterly to address systemic issues, including but not  
26 limited to the data-sharing needs of behavioral health system  
27 partners.

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

31 (a) The authority;

32 (b) The department of social and health services;

33 (c) The department;

34 (d) The office of the governor;

35 (e) One representative from the behavioral health administrative  
36 services organization per regional service area; and

37 (f) One county representative per regional service area.

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

Passed by the House April 13, 2023.

Passed by the Senate April 7, 2023.

Approved by the Governor May 4, 2023.

Filed in Office of Secretary of State May 5, 2023.

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