

E2SHB 1515 - S COMM AMD

By Committee on Health & Long Term Care

1 Strike everything after the enacting clause and insert the
2 following:

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

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

20 (b) As of December 2022, 1,953,153 Washington residents rely on
21 apple health managed care organizations to provide for their physical
22 and behavioral health needs. During the integration of physical and
23 behavioral health care pursuant to chapter 225, Laws of 2014, the
24 health care authority most recently procured managed care services in
25 2018 and selected five managed care organizations to serve as
26 Washington's apple health plans to provide for the physical and
27 behavioral health care needs of medicaid enrollees. The health care
28 authority has begun considering when to conduct a new procurement for
29 managed care organizations, including an allowance for possible new
30 entrants that do not currently serve Washington's medicaid
31 population.

1 (c) Medicaid managed care procurement presents a need and an
2 opportunity for the state to reset expectations for managed care
3 organizations related to behavioral health services to ensure that
4 Washington residents are being served by qualified and experienced
5 health plans that can deliver on the access to care and quality of
6 care that residents need and deserve.

7 (2) It is the intent of the legislature to seize this opportunity
8 to address ongoing challenges Washington's medicaid enrollees face in
9 accessing behavioral health care. The legislature intends to
10 establish robust new standards defining the levels of medicaid-funded
11 behavioral health service capacity and resources that are adequate to
12 meet medicaid enrollees' treatment needs; to ensure that managed care
13 organizations that serve Washington's medicaid enrollees have a track
14 record of success in delivering a broad range of behavioral health
15 care services to safety net populations; and to advance payment
16 structures and provider network delivery models that improve
17 equitable access, promote integration of care, and deliver on
18 outcomes.

19 (3) The legislature finds that increased access to behavioral
20 health services for American Indians and Alaska Natives, children in
21 foster care, and the aged, blind, and disabled through the
22 preservation and enhancement of the fee-for-service system is also
23 critical to reducing health disparities among these vulnerable
24 populations. The legislature also intends to increase access to
25 timely and robust behavioral health services for American Indians and
26 Alaska Natives, children in foster care, and the aged, blind, and
27 disabled, in the fee-for-service system they access.

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

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

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

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

1 (c) Accountability for the client outcomes established in RCW
2 71.24.435, 70.320.020, and 71.36.025 and performance measures linked
3 to those outcomes;

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

11 (e) Provisions to require that medically necessary substance use
12 disorder and mental health treatment services be available to
13 clients;

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

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

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

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

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

36 (2) At least six months prior to releasing a medicaid integrated
37 managed care procurement, but no later than January 1, 2025, the
38 authority shall adopt statewide network adequacy standards that are
39 assessed on a regional basis for the behavioral health provider
40 networks maintained by managed care organizations pursuant to

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

16 (a) Include a process for an annual review of the network
17 adequacy standards;

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

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

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

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

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

36 (3) Before releasing a medicaid integrated managed care
37 procurement, the authority shall identify options that minimize
38 provider administrative burden, including the potential to limit the
39 number of managed care organizations that operate in a regional
40 service area.

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

4 (a) Demonstrated commitment and experience in serving low-income
5 populations;

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

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

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

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

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

23 ~~(f))~~ (g) The ability to meet requirements established by the
24 authority~~((.(3)))~~;

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

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

39 (j) Demonstrated commitment by managed care organizations to the
40 use of alternative pricing and payment structures between a managed

1 care organization and its behavioral health services providers,
2 including provider networks described in subsection (b) of this
3 section, and between a managed care organization and a behavioral
4 administrative service organization, in any of their agreements or
5 contracts under this section, which may include but are not limited
6 to:

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

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

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

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

34 (b) The authority shall recognize and support, and may not limit
35 or restrict, a delegation arrangement that a managed care
36 organization and a provider network described in (a) of this
37 subsection have agreed upon, provided such arrangement meets the
38 requirements of the integrated managed care contract and the national
39 committee for quality assurance accreditation standards. The
40 authority may periodically review such arrangements for effectiveness

1 according to the requirements of the integrated managed care contract
2 and the national committee for quality assurance accreditation
3 standards.

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

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

17 (8) The authority shall, in consultation with managed care
18 organizations, review reports and recommendations of the involuntary
19 treatment act work group established pursuant to section 103, chapter
20 302, Laws of 2020 and develop a plan for adding contract provisions
21 that increase managed care organizations' accountability when their
22 enrollees require long-term involuntary inpatient behavioral health
23 treatment and shall explore opportunities to maximize medicaid
24 funding as appropriate.

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

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

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

EFFECT: Creates intent language relating to declaring the state's intention to increase access to timely and robust behavioral health services for individuals who access Medicaid services through the fee-for-service system.

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