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SECOND SUBSTITUTE HOUSE BILL 1713

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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 71.24  
5 RCW; adding a new section to chapter 28B.30 RCW; creating new  
6 sections; providing an effective date; and providing an expiration  
7 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) Effective January 1, 2018, the authority shall require  
11 provider payment for annual depression screening for youth ages  
12 twelve through eighteen as recommended by the bright futures  
13 guidelines of the American academy of pediatrics, as they existed on  
14 January 1, 2017. Providers may include, but are not limited to,  
15 primary care providers, public health nurses, and other providers in  
16 a clinical setting. This requirement is subject to the availability  
17 of funds appropriated for this specific purpose.

18 (10) Effective January 1, 2018, the authority shall require  
19 provider payment for maternal depression screening for mothers of  
20 children ages birth to one year. This requirement is subject to the  
21 availability of funds appropriated for this specific purpose.

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

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

31 (2) In establishing and operating the program, the department or  
32 contracted entity shall: (a) Assist child care providers in  
33 recognizing the signs and symptoms of trauma in children; (b) provide  
34 support and guidance to child care staff; (c) consult and coordinate  
35 with parents, other caregivers, and experts or practitioners involved  
36 with the care and well-being of the young children; and (d) provide  
37 referrals for children who need additional services.

1        NEW SECTION.    **Sec. 6.**    The office of the superintendent of public  
2 instruction must produce a case study of an educational service  
3 district that is successfully delivering and coordinating children's  
4 mental health activities and services. Activities and services may  
5 include but are not limited to medicaid billing, facilitating  
6 partnerships with community mental health agencies, and seeking and  
7 securing public and private funding. The case study must include  
8 recommendations for how the model might be replicated in other  
9 educational service districts and must be delivered to the governor  
10 and the appropriate committees of the legislature in accordance with  
11 RCW 43.01.036 by December 1, 2018.

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

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

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

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

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

27        (b) For purposes of this section, reimbursement of store and  
28 forward technology is available only for those services specified in  
29 the negotiated agreement between the behavioral health organization  
30 and provider.

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

35        (4) Any originating site, other than a home, under subsection (3)  
36 of this section may charge a facility fee for infrastructure and  
37 preparation of the patient. Reimbursement must be subject to a  
38 negotiated agreement between the originating site and the behavioral

1 health organization. A distant site or any other site not identified  
2 in subsection (3) of this section may not charge a facility fee.

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

6 (6) A behavioral health organization may subject coverage of a  
7 telemedicine or store and forward technology behavioral health  
8 service under subsection (1) of this section to all terms and  
9 conditions of the behavioral health organization in which the covered  
10 person is enrolled, including, but not limited to, utilization  
11 review, prior authorization, deductible, copayment, or coinsurance  
12 requirements that are applicable to coverage of a comparable  
13 behavioral health care service provided in person.

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

16 (a) An originating site for professional fees;

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

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

21 (8) For purposes of this section:

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

25 (b) "Hospital" means a facility licensed under chapter 70.41,  
26 71.12, or 72.23 RCW;

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

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

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

36 (f) "Telemedicine" means the delivery of health care or  
37 behavioral health services through the use of interactive audio and  
38 video technology, permitting real-time communication between the  
39 patient at the originating site and the provider, for the purpose of  
40 diagnosis, consultation, or treatment. For purposes of this section



1 only, "telemedicine" does not include the use of audio-only  
2 telephone, facsimile, or email.

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

6 NEW SECTION. **Sec. 8.** A new section is added to chapter 28B.30  
7 RCW to read as follows:

8 Subject to the availability of amounts appropriated for this  
9 specific purpose, Washington State University shall offer one twenty-  
10 four month residency position that is approved by the accreditation  
11 council for graduate medical education to one resident specializing  
12 in child and adolescent psychiatry. The residency must include a  
13 minimum of twelve months of training in settings where children's  
14 mental health services are provided under the supervision of  
15 experienced psychiatric consultants and must be located east of the  
16 crest of the Cascade mountains.

17 NEW SECTION. **Sec. 9.** Section 7 of this act takes effect January  
18 1, 2018.

19 NEW SECTION. **Sec. 10.** If specific funding for the purposes of  
20 this act, referencing this act by bill or chapter number, is not  
21 provided by June 30, 2017, in the omnibus appropriations act, this  
22 act is null and void.

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