CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1713

65th Legislature
2017 Regular Session

Passed by the House March 1, 2017
Yeas 75 Nays 23

Speaker of the House of Representatives

Passed by the Senate April 12, 2017
Yeas 41 Nays 8

President of the Senate

Approved

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 1713** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1713

Passed Legislature - 2017 Regular Session

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.

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) For children who are eligible for medical assistance and who have been identified as requiring mental health treatment, the authority must oversee the coordination of resources and services through (a) the managed health care system as defined in RCW 74.09.325 and (b) tribal organizations providing health care services. The authority must ensure the child receives treatment and appropriate care based on their assessed needs, regardless of whether the referral occurred through primary care, school-based services, or another practitioner.

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

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

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

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

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

(3) This section expires June 30, 2020.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Obtain the services through competitive bid; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Sharing service models;

(d) Seeking public and private grant funding;

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

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

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

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

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

(5) This section expires January 1, 2020.

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

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

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

(b) The behavioral health service is medically necessary.

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

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

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

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

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

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

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

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

(a) An originating site for professional fees;

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

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

(8) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

(b) The behavioral health service is medically necessary.

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

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

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

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

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

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

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

(a) An originating site for professional fees;

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

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

(8) For purposes of this section:

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

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

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

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

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

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

(9) The authority must adopt rules as necessary to implement the provisions of this section.

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

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

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

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

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

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