

Montana Advocacy Program
Proposed amendments to HB 734
February 19, 2007

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR ADDITIONAL MENTAL HEALTH SERVICES; PROVIDING FOR MENTAL HEALTH CRISIS STABILIZATION CARE SERVICES; PROVIDING FOR MENTAL HEALTH SERVICES FOR INDIVIDUALS WHOSE FAMILY INCOME DOES NOT EXCEED 200 PERCENT OF THE FEDERAL POVERTY THRESHOLD; AMENDING SECTIONS 53-21-701 AND 53-21-702, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Mental health crisis stabilization care services -- psychiatric telemedicine.** (1) The department of public health and human services shall collaborate with service area authorities, as defined in 53-21-1001, to identify needed mental health crisis stabilization care services and to identify the communities with the greatest need.

(2) The department shall provide up to 72 hours of mental health crisis stabilization care services for adults with severe disabling mental illness who are uninsured. Care may be provided in a community or hospital setting based upon the individual's needs. Determination of appropriate crisis stabilization care must be made by a licensed mental health professional.

(3) The department shall provide matching funds for communities to develop and sustain acute mental health crisis stabilization care services, including crisis response teams and community inpatient resources, such as behavioral health inpatient facilities. The department shall provide resources for jail diversion and peer support specialists.

(4) The department shall develop and implement a contractual telemedicine network to provide psychiatric consultation services across the state in areas where psychiatrists are not available. ~~The department shall use a telemedicine network in commitment proceedings to avoid unnecessary transport of patients.~~ The department shall coordinate with existing telemedicine networks and complement existing services. Services may be delivered through a contracted psychiatric assistance hotline and may include specific hospital emergency department training.

Section 2. Section 53-21-701, MCA, is amended to read:

"53-21-701. Mental health managed care allowed -- contract. (1) The department of public health and human services may contract with one or more persons for the management of comprehensive mental health services for medicaid recipients, as provided in 53-6-116, and for persons in households not eligible for medicaid with family income that does not exceed ~~160%~~ 200% of the federal poverty threshold or that does not exceed a lesser amount determined in the discretion of the department.

(2) The department shall determine whether or not a potential contractor that will serve medicaid enrollees is a managed care community network, as defined in 53-6-702, prior to entering into a contract and shall ensure that each contractor that qualifies as a managed care community network complies with the provisions of Title 53, chapter 6, part 7, for the medicaid portion of the program.

~~(2)~~(3) A managed care system is a program organized to serve the mental health needs of recipients in an efficient and cost-effective manner by managing the receipt of comprehensive mental health care and services for a geographical or otherwise defined population of recipients through appropriate health care professionals. The management of mental health care services must provide for services in the most cost-effective manner through coordination and management of the appropriate level of care and appropriate level of services.

~~(3)~~(4) The department may enter into one or more contracts with a managed health care entity, as defined in 53-6-702, for the administration or delivery of mental health services. These contracts may be based upon a fixed monetary amount or a capitated amount for each individual, and a contractor may assume all or a part of the financial risk of providing and making payment for services to a set population of eligible individuals if the contractor has complied with Title 53, chapter 6, part 7. The department may require the participation of recipients in managed care systems based upon geographical, financial, medical, or other factors that the department may determine are relevant to the development and efficient operation of the managed care systems. Any contract for delivery of mental health care services that includes hospitalization or physician services, or both, must include a provision that, prior to final award of a contract, a successful bidder that serves adults shall enter into an agreement regarding the Montana state hospital and the Montana mental health nursing care center that is consistent with 53-1-402, 53-1-413, and

90-7-312 and that includes financial incentives for the development and use of community-based services, rather than the use of the state institutional services.

(4)(5) The department and service area authorities, as defined in 53-21-1001, shall formally evaluate contract performance with regard to specific outcome measures. The department shall explicitly identify performance and outcome measures that contractors are required to achieve in order to comply with contract requirements and to continue the contract. The contract must provide for progressive intermediate sanctions that may be imposed for nonperformance. The contract performance evaluation must include a section concerning contract enforcement, including any sanctions imposed along with the rationale for not imposing a sanction when the imposition is authorized. The evaluation must be performed at least annually."

Section 3. Section 53-21-702, MCA, is amended to read:

"53-21-702. Mental health care system -- eligibility -- services -- advisory council. (1)

The department of public health and human services shall, in collaboration with service area authorities, as defined in 53-21-1001, develop a delivery system of mental health care from providers or other entities that are able to provide administration or delivery of mental health services. The public mental health care system shall:

- (a) include specific outcome and performance measures for the administration or delivery of a continuum of mental health services;
- (b) provide for local advisory councils that shall report to and meet on a regular basis with ~~the advisory council provided for in subsection (4)~~ their respective service area authority;
- (c) provide level-of-care appeals that are understandable and accessible; and
- (d) provide a system for tracking children who need mental health services that are provided under substantive interagency agreements between state agencies responsible for addictive and mental disorders, foster care, children with developmental disabilities, special education, and juvenile corrections.

(2) The department may establish resource and income standards of eligibility for mental health services that are more liberal than the resource and income standards of eligibility for physical health services. The standards of eligibility for mental health services may provide for eligibility for households not eligible for medicaid with family income that does not exceed ~~160%~~ 200% of the federal poverty threshold or that does not exceed a lesser amount determined at the

discretion of the department. The department may by rule specify under what circumstances deductions for medical expenses should be used to reduce countable family income in determining eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged to recipients for services. The fees, premiums, or copayments may vary according to family income based on a sliding fee scale.

(3) The department, in collaboration with service area authorities, shall establish the amount, scope, and duration of services to be provided under the program. ~~Services; however, mental health [S]ervices for nonmedicaid-eligible individuals may not be more limited than those services provided to medicaid-eligible individuals. must be evidence-based and client-driven, and promote recovery.~~ and Services to nonmedicaid-eligible individuals may must include a pharmacy benefit, inpatient psychiatric care and laboratory services.

(4) (a) The department shall form an advisory council, to be known as the mental health oversight advisory council, to provide input to the department in the development and management of any public mental health system. The advisory council is not subject to 2-15-122. The advisory council membership must include:

(i) one-half of the members as consumers of mental health services, including persons with serious mental illnesses who are receiving public mental health services, other recipients of mental health services, former recipients of public mental health services, and immediate family members of recipients of mental health services; and

(ii) advocates for consumers or family members of consumers, members of the public at large, providers of mental health services, legislators, and department representatives.

(b) The advisory council under this section may be administered so as to fulfill any federal advisory council requirements to obtain federal funds for this program.

(c) Geographic representation must be considered when appointing members to the advisory council in order to provide the widest possible representation.

(d) The advisory council shall provide a summary of each meeting and a copy of any recommendations made to the department to the legislative finance committee and any other designated appropriate legislative interim committee. The department shall provide ~~the same~~ those committees with the department's rationale for not accepting or implementing any recommendation of the advisory council."