

HOUSE BILL NO. 248

INTRODUCED BY E. STAFMAN, C. KEOGH, D. HAWK, A. BUCKLEY, M. MARLER, M. CAFERRO, K. ABBOTT, D. HARVEY, J. KARLEN, M. ROMANO, E. MATTHEWS, S. HOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO MAKE SUPPLEMENTAL PAYMENTS TO PROVIDERS OF MEDICAID-FUNDED MENTAL HEALTH SERVICES BASED ON THE BENCHMARK RATE IDENTIFIED THROUGH THE 2021-2022 PROVIDER RATE STUDY; ESTABLISHING PAYMENT REQUIREMENTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the 2017 Legislature approved a series of budget cuts to occur in Fiscal Year 2018 if state revenues for Fiscal Year 2017 fell below certain levels after the Legislature adjourned; and

WHEREAS, Fiscal Year 2017 revenues were low enough to trigger all the authorized budget cuts; and

WHEREAS, the state's mental health providers were affected by three specific budget reductions that resulted in a 2.99% decrease in Medicaid reimbursement rates and more than a 50% cut in funding for targeted case management services; and

WHEREAS, additional budget reductions made by the governor in November 2017 further reduced funding for some mental health services; and

WHEREAS, providers of mental health services told the Children, Families, Health, and Human Services Interim Committee during the 2021-2022 interim that the reductions have had long-lasting effects on their ability to provide services; and

WHEREAS, mental health providers are among the many Montana employers experiencing the effects of workforce shortages that began during the COVID-19 pandemic; and

WHEREAS, the Behavioral Health Alliance of Montana (BHAM), in a June 2021 letter to the Department of Public Health and Human Services (DPHHS) director and the chairman of the American Rescue Plan Act Health Commission, stated: "The behavioral health system in Montana is in danger of imminent collapse unless it receives immediate relief"; and

WHEREAS, the BHAM executive director was quoted in an August 1, 2021, news article as saying providers needed "an immediate infusion of cash to keep the lights on and the doors open"; and

1 WHEREAS, testimony before the Children, Families, Health, and Human Services Interim Committee
2 consistently supported those and similar statements, and several behavioral health facilities in Montana have
3 reduced beds and closed group homes during the 2021-2022 interim; and

4 WHEREAS, the 2021 Legislature appropriated up to \$2.75 million to DPHHS to study the effects of
5 COVID-19 on Medicaid providers and make recommendations to adjust rates, if necessary, in an effort to
6 maintain services; and

7 WHEREAS, DPHHS contracted for the study with Guidehouse, which reviewed Medicaid payment data
8 for Montana, conducted a provider cost and wage survey, held meetings with various stakeholder work groups,
9 and reviewed Medicaid rates in nearby states; and

10 WHEREAS, Guidehouse determined "benchmark costs" that indicated the resources needed in Fiscal
11 Year 2023 to promote access to quality Medicaid-funded services; and

12 WHEREAS, the benchmark costs for adult mental health services were 17.4% higher than the
13 estimated payments for Fiscal Year 2022 and were 11% higher for children's mental health services; and

14 WHEREAS, the Children, Families, Health, and Human Services Interim Committee on June 27, 2022,
15 voted to ask Governor Gianforte to review all potential funding sources to immediately address the payment
16 gaps; and

17 WHEREAS, in an August 18, 2022, reply to the committee, DPHHS Director Charlie Brereton said all
18 funds appropriated to the department had been expended or obligated and that the department did not have the
19 authority to change the amount or allowable use of an appropriation; and

20 WHEREAS, Director Brereton noted DPHHS cannot spend funds without an authorized appropriation.

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

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24 **NEW SECTION. Section 1. Appropriation.** (1) There is appropriated \$20,071,556 from the general
25 fund to the department of public health and human services for the fiscal year ending June 30, 2023, to make
26 supplemental payments to providers of medicaid-funded behavioral health services for adults and children in
27 order to recognize the difference between the reimbursement rates being paid in fiscal year 2023 and the
28 benchmark rate published in the July 22, 2022, "Montana Rate Studies" report prepared for the department of

1 public health and human services by guidehouse on the results of the provider rate study conducted during the
2 2021-2022 interim.

3 (2) Except as provided in subsection (3), the appropriation must be used to supplement payments
4 made for services provided in fiscal year 2023 by calculating the total amount billed by a provider during the
5 time frames provided for in subsection (4) and making a supplemental payment equal to:

6 (a) the percentage increase indicated for each service listed in tables 47, 48, 50, 51, 52, 54, 56,
7 57, and 58 on pages 83 through 90 of the provider rate study; or

8 (b) the difference between the current rate and the benchmark rate listed in tables 49, 51, and 56
9 when a percentage increase is provided because the benchmark rate involves a new payment structure.

10 (3) Supplemental payments do not need to be made for services listed:

11 (a) in table 50 where a percentage increase is not indicated; or

12 (b) in table 51 that are new services.

13 (4) (a) No later than May 15, 2023, the department shall make supplemental payments as provided
14 in subsection (2) based on the amount billed by providers of behavioral health services as of January 31, 2023.

15 (b) The department shall make a second supplemental payment no later than August 15, 2023,
16 based on the amount billed by providers from February 1, 2023, through June 30, 2023.

17 (5) If the appropriation is insufficient to fully fund the second supplemental payment, the
18 department shall make payments to the greatest extent possible and reduce payments by the same proportion
19 for each service.

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21 **NEW SECTION. Section 2. Direction to department of public health and human services.** The
22 legislature directs the department of public health and human services to work with the centers for medicare
23 and medicaid services to determine whether federal medicaid funds would be available to match any portion of
24 the supplemental payments. If federal funds are available, the legislature intends that the general fund
25 appropriation be reduced by the amount of federal funds available.

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27 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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