

STORAGE NAME: h2093.grr

DATE: April 4, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES & REGULATIONS
ANALYSIS**

BILL #: HB 2093 (PCB LT 00-03c)

RELATING TO: Mental Health and Substance Abuse

SPONSOR(S): Committee on Elder Affairs & Long Term Care, Representative Argenziano, and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELDER AFFAIRS & LONG TERM CARE YEAS 9 NAYS 0
- (2) GOVERNMENTAL RULES & REGULATIONS
- (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

HB 2093 defines a list of mental health and substance abuse treatment related terms. The bill creates a new section detailing clinical eligibility and financial eligibility and the requirements for fee collection. To be eligible to receive publicly funded mental health or substance abuse services, a person must be a member of one of the Department of Children & Families' (department) priority groups as approved by the Legislature under section 216.0166, F.S., the performance-based program budgeting requirements. The department is directed to adopt rules to implement clinical eligibility and fee collection requirements for publicly funded substance abuse and mental health services that would include a sliding-fee scale for persons who have a net family income at or above 150 percent of the Federal Poverty Income Guidelines.

The district health and human services boards are directed to prepare a combined district substance abuse and mental health plan. District plans must ensure that persons living in the community receive the newest psychiatric medications, provide for the development of community-based independent housing units and supported employment services, the integration of treatment programs for persons with co-occurring disorders, and that adults with serious mental illnesses who live in assisted living facilities are adequately served.

The Department of Children and Family Services must prepare a master plan every three years with annual updates to be submitted to the Legislature. The initial plan must include an assessment of the clinical practice guidelines and standards for community-based treatment services delivered by agencies under contract with the Department of Children and Family Services. The bill directs other reports and studies.

The bill has no significant fiscal impact.

The effective date of the bill is July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Florida's Community Alcohol, Drug Abuse, and Mental Health Services System

Part IV of ch. 394, F.S., is known as "The Community Alcohol, Drug Abuse, and Mental Health Services Act" and includes provisions for planning, defining, operating, financing, contracting, and managing the district alcohol, drug abuse, and mental health (ADM) service delivery system. These community-based services are administered by the Alcohol, Drug Abuse, and Mental Health Program Office and 15 district ADM offices within the Department of Children and Family Services (department or DCFS). The department contracts with 280 private for-profit and not-for-profit providers (mental health centers, substance abuse treatment and prevention centers, public and private psychiatric hospitals, and private mental health professionals) that deliver a variety of services.

Local governments provide matching funds for a portion of the budget.

The FY 1999-2000 Legislative appropriation (general revenue and federal trust funds) to the department for community ADM services was approximately \$462 million. In addition to these appropriated funds, it is estimated by the Agency for Health Care Administration (AHCA) that Medicaid expenditures for community ADM services for FY 1999-2000 will be approximately \$230 million. Medicaid is a federal/state health insurance entitlement program administered by the AHCA that provides payment for certain mental health and substance abuse services to approved providers for enrolled eligible children, adolescents, and adults.

Some needs assessment information and nationally recognized prevalence rates support the department's estimate that Florida's publicly funded mental health system is currently meeting approximately 21 percent of the treatment needs of children and 12 percent of the treatment needs of adults. For persons needing substance abuse treatment, Florida's publicly funded system is currently meeting approximately 22.7 percent of the treatment needs of children and 16.4 percent of the treatment needs of adults. However, these estimates are absolutely contingent upon the definition of "severe mental illness" and other similar terms used to define or label the groups to be counted. Several journal articles in the last few years have illustrated the lack of a consensus on a definition of "severe and

persistent mental illness,” particularly, but other terms and descriptions are also criticized as vague or too elastic to be of empirical value.

Client Population Groups and Comprehensive System of Treatment Services

Currently, the substantive law defines the populations served with state and federal funds in the section of law requiring district alcohol, drug abuse, and mental health plans, s. 394.75(4), F.S., and include: *chronic public inebriates, marginally functional alcoholics, chronic opiate abusers, poly-drug abusers, chronically mentally ill individuals, acutely mentally ill individuals, severely emotionally disturbed children and adolescents, elderly persons at high risk of institutionalization, and individuals returned to the community from a state mental health treatment facility*. Many of these terms are no longer used to describe persons in need of mental health or substance abuse treatment services. However, under the requirements associated with performance-based program budgeting, the department has been authorized to serve a differently labeled group of persons.

Section 394.675, F.S., defines the system of alcohol, drug abuse, and mental health services purchased with state and federal funds. Those services are categorized as: *primary care services (emergency stabilization, detoxification, inpatient, residential, and case management); rehabilitative services (outpatient, day treatment, and partial hospitalization); and preventive services (consultation, public education, and prevention)*. These service categories were created in 1984 (ch. 84-285, L.O.F.) and have not been revised. Many of the treatment modalities and support services that have proven effective for persons with serious mental illness and substance abuse problems are not included in these definitions.

Collection of Fees From Families

Section 394.74(3)(c), F.S., includes a provision for mental health and substance abuse treatment providers to make every reasonable effort to collect fees from persons who are able to pay. The department’s contracts with providers require the provider to develop a fee schedule and a fee collection policy. The fee schedule must be based on income and family size and approved by the department.

Section 394.493(2), F.S., requires that each mental health provider under contract with the department to provide mental health services to children and adolescents with an emotional disturbance or serious emotional disturbance collect fees from the parent or legal guardian of the child or adolescent receiving services. These fees are based on a sliding fee scale for families whose net family income is between 100 percent and 200 percent of the Federal Poverty Income Guidelines. A family whose net family income is 200 percent or more above the Federal Poverty Income Guidelines is responsible for paying the full cost of services.

Planning

Section 19 of ch. 92-58, L.O.F., repealed s. 394.715, F.S., on July 30, 1994, eliminating the district ADM planning councils. It did not specify any entity to assume those planning duties. The statute, however, still requires an ADM plan, since section 394.75, F.S., has not been revised.

Performance-Based Budgeting (PB²)

HB 4201 (General Appropriations Act for FY 1998-99) included performance outcome and output measures for services to children and adults with mental health and substance abuse problems. Those measures are indicators used by the Legislature to assess the performance of mental health and substance abuse programs and services for which the department contracts with community-based non-profit provider agencies. According to data from the department for FY 1998-99, the standards for two outcome measures (days spent in the community and average functional level) for adults with serious mental illness were not achieved when using the statewide average scores.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) recently completed a justification review of the Alcohol, Drug Abuse, and Mental Health Program. That review states that using statewide performance standards in provider contracts may not provide the district ADM staff with useful information about the performance of certain providers. All providers are held to the same standards even though there are differences in the characteristics of clients that the providers serve. The OPPAGA report also states that the lack of intermediate and process measures in the ADM program to effectively assess an individual provider's performance is a weakness in the program's accountability system. The review recommends that the department modify monitoring activities to focus on clinical practices and administrative and compliance issues to determine effects of services on clients.

C. EFFECT OF PROPOSED CHANGES:

Client Population Groups and Comprehensive System of Treatment and Support Services

Legislative intent is amended in s. 394.66, F.S., to recognize that mental illness and substance abuse are diseases responsive to medical and psychological interventions and to emphasize the provision of treatment and support services to persons with mental health and substance abuse needs through a community-based system of care. The bill directs that mental health and substance abuse treatment services, particularly for those persons who suffer from both a mental illness and a substance abuse impairment, be integrated. The bill directs the department to ensure that mental health and substance abuse planning efforts and treatment services are coordinated with other local systems such as criminal justice, school districts, public health, and organizations or groups focusing on services to older adults.

Section 394.674, F.S., is created establishing clinical eligibility and fee collection requirements for publicly funded substance abuse and mental health services.

Crisis services which are defined in s. 394.67(21), F.S., must be available within the limitations of available state and local matching funds to the following persons:

- persons experiencing an acute mental or emotional crisis; and,
- persons experiencing a substance abuse crisis.

Mental health services that are defined in s. 394.67, F.S., must be available within the limitations of available state and local matching funds to the following persons:

- children and adolescents with an emotional disturbance or a serious emotional disturbance; and,

- adults in one of the target groups approved pursuant to section 216.0166, F.S.

Persons experiencing a crisis will receive services regardless of their ability to pay which is consistent with current law.

Persons receiving mental health, substance abuse, or crisis services who are at or above 150 percent of the Federal Poverty Income Guidelines must pay a portion of the cost for these services based upon a sliding fee scale. Current ADM provider contracts require that the provider develop a fee schedule and fee collection policy based on income and family size that must be approved by the department. The contracts do not, however, specify the Federal Poverty Income Guidelines. Persons who are in crisis and meet the criteria for an involuntary examination under the Baker Act, pursuant to s. 394.463(1), F.S., or meet the involuntary admission criteria for substance abuse services under s. 397.675, F.S., are exempt from paying a fee. Also, the nature and extent of the person's crisis situation may exempt him or her from paying a fee.

The department must describe in the district substance abuse and mental health plans the treatment and support services provided to all populations and must adopt rules specifying the local planning process for determining the special client groups and for defining the services to be provided.

The bill amends s. 394.675, F.S., by deleting the current service categories "primary care," "rehabilitative," and "preventive" that comprise the system of comprehensive substance abuse and mental health services and adding "crisis services," "substance abuse services," and "mental health services." Each service is defined in s. 394.67, F.S., and includes the most current treatment modalities and support services that help persons recover from mental illness, emotional disturbances, and addictive disorders and maintain stabilization in the community.

Section 394.676, F.S., is created authorizing the Indigent Psychiatric Medication Program that operates within Legislative appropriations. The department is directed to adopt rules for the program that identifies clients who may receive services, criteria for community-based mental health providers to receive funds under the program, and sanctions for participants who do not comply with the standards.

Section 394.75, F.S., is amended providing for a State Master Plan and directing the district health and human services board to prepare an annual district substance abuse and mental health plan.

The bill requires that the continuum of services specified in each district plan include: maximizing client access to the most recently developed psychiatric medications approved by the Federal Drug Administration, the development of independent housing units through participation in the United States Department of Housing and Urban Development's Section 811 program, the development of supported employment services through the Division of Vocational Rehabilitation in Florida's Department of Labor and Employment Security, treatment services to persons with co-occurring mental illness and substance abuse problems, and services to adults with a serious mental illness who reside in assisted living facilities.

The bill also requires that a subcommittee be established in each district to prepare the portion of the district plan relating to adult mental health and substance abuse. That subcommittee must include representatives from the community with an interest in

treatment for adults including local government entities that contribute funds to the public system, consumers of services, and family members. Current law requires that a subcommittee be established to prepare the portion of the district plan relating to children and adolescents. The bill clarifies that this existing subcommittee must address both mental health and substance abuse treatment needs for children and adolescents in the district.

Annual Report on Performance-Based Budgeting

The bill directs the department to submit a report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year describing the status of compliance with the performance outcome standards established by the Legislature. The report would discuss compliance of substance abuse and mental health providers under contract with the Department of Children and Family Services with the annual performance standards specified in their contracts.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Amends s. 394.455, F.S., Definitions. The phrase “mental or” is added to the definition of mental illness, which currently references impairment of emotional processes.

Section 2 Amends s. 394.492, F.S., Definitions. The definition of a child or adolescent in crisis is revised.

Section 3 Amends s. 394.493, F.S., Target Populations for children and adolescents. Mental health providers must collect fees from families or legal guardians of a child or adolescent receiving services. The fee is based on a sliding fee scale for families whose net income is at or above 150 percent of the Federal Poverty Income Guidelines instead of the current requirement for families with incomes between 100 and 200 percent. Makes a technical and conforming change.

Section 4 Amends 394.65, F.S., to make a technical and conforming change.

Section 5 Amends 394.66, F.S., Legislative intent. This section adds subsection (1) which provides that the Legislature recognizes that mental illness and substance abuse impairment are diseases that are responsive to treatment and that quality and cost-efficient outcomes for clients and community-based treatment systems are desirable.

This section further provides that it is the intent of the Legislature to: improve the mental health of the state’s citizens by making substance abuse treatment and mental health services available to the poorest persons; to ensure that the department and the Agency for Health Care Administration plan and design comprehensive programs together; ensure that persons with mental illness and substance abuse problems receive integrated services; and, that services are organized and financed based on “client outcomes, programmatically effective and financially efficient.” Makes technical and conforming changes.

Section 6 Amends 394.67, F.S., Definitions. This section provides definitions for crisis services, of the district health and human services (HHS) board and assigns responsibility for mental health planning to the HHS board. Definitions are provided for mental health services, treatment services, rehabilitative services, support services, case management, person in mental health crisis and person in substance abuse crisis, sliding fee scale,

substance abuse services, assessment services, intervention services, ancillary services, and prevention services. It provides that mental health services may be provided in a variety of settings and lists examples of those, and directs that the type and intensity of services provided shall be based on the client's clinical status and goals; community resources and preferences. It references "assertive community treatment."

Section 7 Creates section 394.674, F.S., which establishes clinical eligibility and fee collection requirements for publicly funded services. The section requires that rules be adopted to implement the clinical eligibility and fee collection requirements and that the rules provide that persons receiving federal disability benefits and who are in long-term residential treatment settings contribute toward the costs of the board and care.

Section 8 Amends section 394.675, F.S., Substance abuse and mental health service system. It requires that a community-based system be established and include: crisis services; substance abuse services; and mental health services. It deletes the definitions of primary care services, rehabilitative services, and preventive services and adds that state and federal funds provided for "specific populations" must be used for that purpose.

Section 9 Creates 394.676, F.S., Indigent psychiatric drug medication program. It allows the department to purchase medication for certain persons who are not in a state mental health treatment facility or an inpatient unit and requires the department to adopt rules that specify the criteria, clinical and financial, for determining eligible clients, the criteria that must be met by providers to receive funds under this program and sanctions for those who do not comply with the standards.

Section 10 Amends section 394.74, F.S., Contracts for local services. The section makes technical and conforming changes.

Section 11 Amends section 394.75, F.S., Substance abuse and mental health plans. Provides that the department develop a "State Master Plan" every three years beginning in 2001. The requirements for the initial plan are delineated and identifies parties to be included in the local planning process. Provides that the district plans will be one component of the Master Plan. The Master Plan must propose a solution to the funding discrepancies between districts, a methodology for the allocation of federal, state, and local funding, a description of the statewide priorities for clients and services, a method for enhancing local participation in the planning process, guidelines and formats for the development of district plans and recommendations for the future directions of the mental health and substance abuse service deliver system. Direction is provided for the district plans. Specific requirements include: assurance that discharge planning results in clients applying for all benefits, including Medicaid, for which they may be eligible. Each district plan also must include provisions for ensuring that clients have access to the most recently developed psychiatric medications approved by the Food & Drug Administration; for developing independent housing units through the Federal section 811 program; for developing supported employment through the Department of Labor and Employment Security; for providing treatment services to those persons who require both mental health and substance abuse services; and for providing services to persons living in assisted living facilities (ALFs) who are mentally ill. The board shall establish a subcommittee to prepare the parts of the district's plan that relate to mental health and substance abuse.

Section 12 Amends section 394.4574, F.S., related to mentally ill persons living in assisted living facilities. The section makes technical and conforming changes.

Section 13 Amends section 394.76, F.S., related to financing of district programs and services. The section adds “substance abuse and mental health appropriation category after fiscal year 2000-2001” to the funds that will not require local match and makes technical and conforming changes.

Section 14 Amends section 394.77, F.S., related to management information, accounting, and reporting systems to make technical and conforming changes.

Section 15 Amends section 394.78, F.S., related to operation and administration to make technical and conforming changes.

Section 16 Amends section 394.908, F.S., related to distribution of appropriations and the equitable allocation of resources among all of the districts.

Section 17 Amends 397.321, F.S., directing the department to ensure that a plan for substance abuse treatment services is developed at the district level in compliance with the provisions of Part IV of chapter 394, F.S.

Section 18 Provides that by November 1 of each year the department submit a report to the President of the Senate and the Speaker of the House of Representatives describing the department’s and its providers’ compliance with the standards established in performance-based program budgeting. Providers whose contracts were terminated due to failure to meet the standards, providers for whom corrective action measures were developed, and providers who met or exceeded the standards are to be identified.

Section 19 Directs the Commission on Mental Health and Substance Abuse to study and make recommendations for those who should receive publicly funded mental health and substance abuse treatment services. The Commission shall submit its report to the President of the Senate, the Speaker of the House, and the majority and minority leaders of each chamber no later than December 1, 2000.

Section 20 Provides that this act shall take effect on July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Specific revenue estimates cannot be identified at this time. Some revenues may be generated by revising the fee scale to include persons whose income is between 100% and 150% of the Federal Poverty Guidelines. A co-payment will be required from persons whose net family income is below 150 percent of the guidelines.

2. Expenditures:

No new expenditures are required by the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None projected at this time.

D. FISCAL COMMENTS:

The bill specifies that treatment services are provided within the limitations of available state and local matching resources. The provisions in the bill that could result in the shifting of district or provider resources include: maximizing client access to the most recently developed psychiatric medications, integrating services for persons with co-occurring disorders, and including treatment and support services to persons with serious mental illness who reside in assisted living facilities.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

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B. RULE-MAKING AUTHORITY:

The department is required to develop rules related to implementing clinical eligibility and fee collection requirements for publicly funded substance abuse and mental health services that would include a sliding-fee scale; rules specifying the local planning process for determining the special client groups and for defining the services to be provided; to ensure that persons receiving federal disability benefits and who are in long-term residential treatment settings contribute toward the costs of the board and care; and, the criteria, clinical and financial, for determining eligible clients, and the criteria that must be met by providers to receive funds under the indigent drug program.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

Staff Director:

Melanie Meyer

Tom Batchelor, Ph.D.

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

Staff Director:

Shari Z. Whittier

David M. Greenbaum