

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Operations Committee

BILL: CS/CS/SB 2626

INTRODUCER: Governmental Operations Committee, Children, Families, and Elder Affairs Committee and Senator Storms

SUBJECT: Substance Abuse and Mental Health

DATE: April 9, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ray	Jameson	CF	Fav/CS
2.	Wilson	Wilson	GO	Fav/CS
3.			HA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

Committee Substitute for Senate Bill 2626 amends s. 394.9082, F.S., and makes the following provisions:

- The bill provides Legislative findings and intent for substance abuse and mental health services.
- The bill defines the terms “behavioral health services,” “decisionmaking model,” “geographic area,” “managing entity,” and “provider networks.”
- The bill authorizes the Department of Children and Families (DCF or “the department”) to work through managing entities to develop service delivery strategies that will improve the coordination, integration, and management of the delivery of behavioral health services to people with mental health or substance abuse disorders.
- The bill directs DCF to enter into data sharing agreements with other state agencies.
- The bill authorizes DCF to contract with community-based managing entities; provides that contracts for services through a managing entity serve geographic areas designated by the department; directs the secretary of DCF to determine the schedule for phasing in contracts with managing entities; and provides for funding by a

combination of DCF funds and savings achieved by the managing entity or its contracted agencies.

- The bill outlines a series of goals for DCF and guides the design of service delivery strategies to provide effective coordination, integration, and management of behavioral health services.
- The bill establishes minimum requirements for managing entities, including 20 core requirements or functions of managing entities.
- The bill authorizes DCF to adopt rules, standards, and processes for qualifying managing entities.
- The bill defines DCF's responsibilities with the adoption of managing entities.
- The bill authorizes DCF in collaboration with managing entities, to design and implement a behavioral health management information system.
- The bill requires DCF to submit reports outlining the progress toward contracting with managing entities.
- The bill provides DCF with rule-making authority.
- The bill provides an effective date of July 1, 2008.

II. Present Situation:

Substance Abuse Program

Chapters 394 and 397, F.S., provide authority for the provision of substance abuse services to children and adults. Substance abuse services fall in three categories including prevention, treatment, and detoxification services. Prevention services are designed to address risk factors which are known to contribute to substance abuse. Services to children may be provided in schools. The services to adults are targeted to the workplace, parents, pregnant women, and other high risk groups. Treatment services include residential programs, outpatient treatment, and recovery support services. Detoxification services are designed to eliminate substance use. These services use medical and clinical procedures to assist children and adults to withdraw from the physical and psychological affects of substance abuse.¹

Alcohol addiction, at 34 percent, accounts for the highest percent of treatment admissions for adults to the substance abuse program followed by cocaine and crack at 27 percent, and marijuana at 21 percent. Marijuana accounts for the highest percentage of adolescent admissions, at 76 percent followed by alcohol, at 16 percent. In recent years there has been an upsurge in prescription drug misuse and abuse and the use of methamphetamines.²

The Substance Abuse Program is responsible for licensure and regulation of the substance abuse provider system. The licensure process which includes setting standards as delineated in ch. 397, F.S., and ch. 65D-30, F.A.C. A range of programs and facilities are licensed, including but not limited to, addiction receiving facilities, detoxification, intensive inpatient treatment,

¹ Department of Children and Families, Substance Abuse and Mental Health Services Plan: 2007-2010, page 6 (January 2007) available at <http://www.dcf.state.fl.us/mentalhealth/publications/stateplan2007.pdf> (last visited March 25, 2008).

² Department of Children and Families, Substance Abuse and Mental Health Services Plan: 2007-2010, page 16 (January 2007) available at <http://www.dcf.state.fl.us/mentalhealth/publications/stateplan2007.pdf> (last visited March 25, 2008).

residential treatment, day or night treatment, outpatient treatment, and medication and methadone treatment programs.³

Mental Health Program

The Mental Health Program is comprised of a system of care for persons with mental illnesses in accordance with chs. 394 and 916, F.S. The program includes mental health services to adults and children as well as oversight of the State Mental Health Treatment Facilities, and the Sexually Violent Predator program.⁴ The system of care for individuals with mental illness or co-occurring substance abuse and mental illnesses is organized as follows:

Adult Community Mental Health includes outpatient care and residential care, such as crisis stabilization units.⁵ The adult program targets three distinct groups:⁶

- *Adults with severe and persistent mental illness:* This includes diagnoses such as schizophrenia, affective disorders and paranoid states as well as other diagnoses.
- *Adults with serious and acute episodes of mental illnesses:* This group includes adults with a mental health problem who meet criteria for admission to an acute care mental health facility.
- *Adults with Mental Health Problems:* This includes adults with a presenting mental health problem who show evidence of a recent severe stressful event and problems coping, or who display symptoms that left untreated could lead to more serious intervention needs.

Children's Community Mental Health includes outpatient care and residential care, such as in therapeutic group homes and inpatient psychiatric programs. The children's program targets the following three populations:⁷

- *Children with serious emotional disturbances:* This may include diagnoses such as schizophrenia or other psychotic disorders, major depression, mood disorder, personality disorder, etc.
- *Children with emotional disturbances:* This includes children classified as students with emotional handicaps by the local school, or other select diagnoses from the Diagnostic and Statistical Manual.
- *Children at risk of emotional disturbance:* This includes children without a mental health diagnosis but with factors associated with an increased likelihood of developing an emotional disturbance (e.g. homelessness, family history, domestic violence, etc). This population also includes children referred for placement in an Emotionally Handicapped program in accordance with the Individuals with Disabilities Education Act (IDEA).

³ *Id.* at page 25.

⁴ *Id.* at page 7.

⁵ *Id.* at page 59.

⁶ *Id.* at page 64 and 65.

⁷ *Id.* at page 76 and 77.

Civil and Forensic State Mental Health treatment Facilities: The Mental Health Program operates or oversees services provided through seven facilities for adults who have been committed to DCF by the courts. Three of the seven facilities are managed by the mental health program while the other four facilities operate under department contracts with private companies. The facilities provide treatment and services to three distinct populations:

- *Adults meeting civil commitment:* The civil population receives services at a level of care which is not available in the community.⁸
- *Adults meeting forensic commitment:* The forensic services population includes individuals who are not guilty by reason of insanity or incompetent to proceed.⁹
- *Individuals civilly committed under the Jimmy Ryce Act:* The sexually violent predator program serves people who are committed as sexually violent predators.¹⁰

III. Effect of Proposed Changes:

The bill amends s. 394.9082, F.S., relating to behavioral health managing entities.

Legislative Findings and Intent

The bill provides the Legislature's findings and intent for substance abuse and mental health disorders, including the finding that:

- Untreated behavioral health disorders constitute major health problems for residents of the state and are a major economic burden;
- Behavioral health disorders respond to appropriate treatment, rehabilitation, and supportive intervention;
- The Legislature and local communities have made substantial investments in behavioral health services; and
- Streamlining administrative processes will create cost efficiencies and provide flexibility to better match available services to consumers' identified needs.

Definitions

The bill provides definitions for the terms "behavioral health services," "decisionmaking model," "geographic area," "managing entity," and "provider networks." The bill defines these terms as follows:

- "Behavioral health services" means mental health services and substance abuse prevention and treatment services as defined chs. 394 and 397, F.S., which are provided using state and federal funds.
- "Decisionmaking model" means a comprehensive management information system needed to answer the following management questions at the federal, state, region, circuit, and local provider levels: who receives what services from which providers with what outcomes and at what costs?

⁸ *Id.* at page 92.

⁹ *Id.*

¹⁰ *Id.*

- “Geographic area” means a county, circuit, regional, or multiregional area in this state.
- “Managing entity” means a corporation that is organized in this state, is designated or filed as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Service, and is under contract to the department to manage the day-to-day operational delivery of behavioral health services through an organized system of care.
- “Provider networks” mean the direct service agencies that are under contract with a managing entity and that together constitute a comprehensive array of emergency, acute care, residential, outpatient, recovery support, and consumer support services.

Service Delivery Strategies

The bill authorizes the department to work through managing entities to develop service delivery strategies that will improve the coordination, integration, and management of the delivery of behavioral health services.

Data Integration

The bill directs the department to enter into data sharing agreements with other state agencies to develop a person-centered reporting system with uniform definitions and reporting criteria to determine the outcomes and costs of the behavioral health care services that are being provided.

Contract for Services

The bill authorizes the department to contract with community-based managing entities for the purchase and management of behavioral health services. The bill provides that the secretary of DCF must determine the schedule for phasing in contracts with managing entities, and that the managing entities must be accountable for the operational oversight of the delivery of behavioral health services and for the collection and submission of required data pertaining to the contracted services. The bill provides that managing entities must serve a geographic areas designated by the department, and that the geographic area be of sufficient size and have the public funds necessary to allow for the flexibility and maximum efficiency of behavioral health services.

The bill provides for the funding of managing entities through a combination of departmental funds and any savings and efficiencies achieved by the managing entity or its contracted agencies. The bill requires that DCF negotiate a reasonable and appropriate administrative cost rate with the managing entity.

The bill also authorizes the department to employ capitation, case rates, or other methods of payment which promote flexibility and efficiencies.

Goals

The bill outlines a series of goals for the department and guides the design of service delivery strategies to provide effective coordination, integration, and management of behavioral health services. The 16 goals contained in this section address improved accountability, continuity of care, early diagnosis improved assessment and service integration, provision of services to dependant children and older adults, and cost effective quality of care.

Essential Elements

The bill requires DCF to terminate its mental health or substance abuse provider contracts for services to be provided by the managing entity at the same time it contracts with the managing entity.

The bill establishes essential requirements for managing entities, including 20 core functions to be provided by managing entities. These requirements include:

- Allocation of funds to network providers in a manner that reflects DCF's strategic direction and plans;
- Provider monitoring to ensure compliance with federal and state laws, rules and regulations;
- Operational plans to implement objectives of DCF's strategic plan;
- System of care through network development;
- Incentives for providers to improve quality and access; and
- Resource management and maximization.

The bill provides that a managing entity must ensure that written cooperative agreements are developed and implemented among the criminal and juvenile justice systems, the local community-based care network, and the local behavioral health providers, and must collect and submit data to the department regarding service. The bill requires DCF to evaluate the managing entity services, and to work with managing entities to establish performance standards.

The bill authorizes the Agency for Health Care Administration (AHCA or "the agency") to establish a voluntary certified match program, limiting reimbursement to the federal Medicaid share to Medicaid-enrolled strategy participants. The agency is unclear as to the intent of these provisions, particularly as to the meaning of the term "Medicaid-enrolled strategy participant."

Managing Entity Requirements

The bill authorizes DCF to adopt rules, standards, and a process for the qualification and operation of managing entities based on specified criteria.

DCF Responsibilities and Management Information System Requirements

The bill defines the department's responsibilities with respect to the establishment of managing entities, including monitoring of the managing entity, establishing quality improvement goals, coordinating with community and state agencies and licensing substance abuse providers.

The bill authorizes the department, in collaboration with managing entities, to design and implement a comprehensive behavioral health management information system.

Reporting

The bill directs the department to submit reports on January 1 and July 1 of each year until the transition to managing entities has been accomplished statewide to the substantive and appropriations committees of the Senate and House of Representatives outlining the progress toward contracting with managing entities.

Rules

The bill authorizes DCF to adopt rules as necessary to administer the provisions of s. 394.9082, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to DCF, the permissive language of the bill allows the department to implement the provisions of the bill on an incremental basis, without additional fiscal impact.

According to a preliminary review of the bill by AHCA, the bill has no clear fiscal impact.

VI. Technical Deficiencies:

The bill requires that DCF negotiate a reasonable and appropriate administrative cost rate with the managing entity. This provision is unclear.

At lines 99-105, the bill provides that the department may require a managing entity to contract for specialized services or with specific types of providers. These provisions could be interpreted to allow the department to compel a private provider to undertake certain actions, perhaps outside of the provisions of a negotiated contract.

At lines 147-201, the bill provides a list of goals of the "service delivery strategies" but it is unclear what entity is responsible for implementing the enumerated goals.

At lines 283-291, the bill proposes that AHCA establish a voluntary certified match program. The intent of this section is unclear. The meaning of the "Medicaid-enrolled strategy participant" is not defined.

The bill makes statements regarding what the department recognizes and what the department will be able to do once managing entities are introduced. It may be inappropriate to include these statements in legislation.

VII. Related Issues:

The CS requires the outsourcing of the department's central data system to an outside, third-party information technology vendor. There are no stated standards for how a successor system is to be configured or what relationship the successor system is to have with the remainder of the programs administered by the agency. The 2007 Legislature created the Agency of Enterprise Information Technology to guide and discipline some of the public investments in cross-agency data processing hardware and software. A method of implementing this agency's mission through the consolidation of multiple state agency and publicly owned data centers is embodied in Senate Bill 1892. One of the major data centers initially selected as a host for other state agencies is the Northwood Data Center, potentially the very one identified in this bill for outsourcing.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes: (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 12, 2008:

Provides the Legislative findings and intent for substance abuse and mental health services.

- Defines the terms “behavioral health services,” “decisionmaking model,” “geographic area,” “managing entity,” and “provider networks.”
- Authorizes DCF to work through managing entities to develop service delivery strategies that will improve the coordination, integration, and management of the delivery of behavioral health services to people with mental health or substance abuse disorders.
- Directs DCF to enter into data sharing agreements with other state agencies.
- Authorizes DCF to contract with community-based managing entities; provides that contracts for services through a managing entity serve geographic areas designated by the department; directs the secretary of DCF to determine the schedule for phasing in contracts with managing entities; and provides for funding by a combination of DCF funds and savings achieved by the managing entity or its contracted agencies.
- Outlines a series of goals for DCF and guides the design of service delivery strategies to provide effective coordination, integration, and management of behavioral health services.
- Authorizes AHCA to establish a voluntary certified match program.
- Establishes minimum requirements for managing entities, including 20 core requirements or functions of managing entities.

- Authorizes DCF to adopt rules, standards, and processes for qualifying managing entities.
- Defines DCF's responsibilities with the adoption of managing entities.
- Authorizes DCF in collaboration with managing entities, to design and implement a behavioral health management information system.
- Requires DCF to submit reports outlining the progress toward contracting with managing entities.

CS by Governmental Operations Committee on April 9, 2008:

The CS for the CS eliminates redundant references to a non-specific grant of flexibility by the Department of Financial Services in the contracting process and provides that implementation of the bill is permissive by the Department of Children and Families.

B. Amendments:

None.