

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1429 Substance Abuse and Mental Health Services
SPONSOR(S): Healthcare Council; Gardiner
TIED BILLS: **IDEN./SIM. BILLS:** SB 2626

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Healthy Families</u>	8 Y, 1 N	Schoolfield	Schoolfield
2) <u>Healthcare Council</u>	15 Y, 0 N, As CS	Schoolfield/Massengale	Gormley
3) <u>Policy & Budget Council</u>			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill makes substantive changes to s. 394.9082, F.S., and provides authority and direction to the department to implement Behavioral Health Managing Entities. Managing entity is defined in the bill as a Florida corporation that is exempt from taxation under s. 501(c)(3), of the Internal Revenue Code and is under contract to the department to manage the day-to-day operational delivery of behavioral health services through the establishment of an organized system of care.

The bill provides the Department of Children and Families the option of contracting with a managing entity for behavioral health services provided under the authority of chapters 394 and 397, Florida Statutes. The bill allows currently operating managing entities that provide mental health, substance abuse, Medicaid and child welfare services to continue operating with this broader structure.

The operating cost of the managing entity contracts is to be funded by the department and through savings and efficiencies achieved by implementing the managing entities. Managing entities are to submit plans to the department which describe anticipated efficiencies. The bill provides Legislative intent that reductions in state cost for contract management and administrative duties be proportionately reduced and the savings used to fund the administrative functions of the managing entity. The circuit and region offices of the department, upon contracting with a managing entity, are to redirect their efforts to monitoring the managing entity contract, negotiating quality improvement goals, reviewing plans, licensing functions, health planning activities, conducting onsite readiness reviews of managing entities and communicating with and advising department headquarters.

The bill provides requirements and essential elements for managing entities including but not limited to core functions, management information systems, governance structures, planning and budgeting functions and information access requirements. In addition, the bill provides department's responsibilities, such as directions for contracting and the role of the department after entering into a managing entity contract.

The department must provide reports to the Governor and Legislature twice each year until full statewide transition to managing entities is accomplished.

There is no fiscal impact projected for the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited Government- The Department of Children and Families may contract with managing entities to shift some of the local operation of state government in the Substance Abuse and Mental Health Program to private provider organizations. Efficiencies are anticipated by shifting these responsibilities to private providers.

B. EFFECT OF PROPOSED CHANGES:

Background

The publicly funded substance abuse and mental health services in Florida are primarily provided through the Department of Children and Family Services. The 2003 Legislature established separate Substance Abuse and Mental Health program offices within Department of Children and Family Services under the Assistant Secretary for Substance Abuse and Mental Health. The services from these programs are provided statewide through a district structure¹. The Mental Health Treatment Facilities (institutions) report to the Assistant Secretary for Substance Abuse and Mental Health at headquarters.

The Substance Abuse and Mental Health Program Offices are responsible for the planning and administration of publicly funded mental health and substance abuse services. These programs also serve as the primary contact to the federal Department of Health and Human Services for all issues pertaining to substance abuse and mental health. Most of the services for these programs are provided through contracts implemented at the circuit level with community substance abuse and mental provider organizations and professionals. In addition, the state Mental Health Treatment Facilities provide mental health and some substance abuse services directly to clients.

Substance Abuse Program

Chapter 394 and 397 of the Florida Statutes 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 and include parents. 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. This service is increasing the use of evidence based practices that are known to produce good outcomes for participants in the program. 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 Recently aligned as 6 Regions and 20 judicial circuits

The priority populations for the Substance Abuse program include:

- Adult Intravenous Drug Users,
- Adults with dual diagnosis (e.g. mental disorder and substance abuse disorder),
- Parents (with substance use disorders) putting their children at risk,
- Adults involved with the criminal justice system,
- Children at risk of initiating drug abuse,
- Children under state supervision with substance use disorders (e.g. Family Safety Program or Dept. of Juvenile Justice), and
- Children not under state supervision with substance use disorders.

Alcohol addiction (34%) accounts for the highest percent of treatment admissions for adults to the substance abuse program followed by cocaine/crack (27%) and marijuana (21%). Marijuana accounts for the highest percentage of adolescent admissions (76%) followed by alcohol (16%). In recent years there has been an upsurge in prescription drug misuse and abuse and the use of methamphetamines.² In addition to the above services the program is responsible for licensure and regulation of the substance abuse provider system. The licensure process which includes setting standards is delineated in chapter 397, F.S., and Chapter 65D-30, Florida Administrative Code. A range of programs and facilities are licensed including but not limited to; addiction receiving facilities, detoxification, intensive inpatient treatment, residential treatment, day or night treatment, outpatient treatment, medication and methadone treatment programs.

Mental Health Program

The mental health program is comprised of a system of care for persons with mental illnesses in accordance with Chapters 394 and 916, Florida Statutes. 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. 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 (typically at community mental health centers) and residential care such as crisis stabilization units, limited license alternative treatment facilities and short term residential treatment units. The adult program targets three distinct groups:

- *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 that 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 that show evidence of a recent severe stressful event and problems coping or the person displays 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 the inpatient psychiatric programs. The children's program targets the following three populations:

² Substance Abuse and Mental Health Services Plan: 2007-2010, January 2007.

- *Children with serious emotional disturbances*: This may include diagnosis such as schizophrenia or other psychotic disorders, major depression, mood disorder, personality disorder, etc.
- *Children with emotional disturbances*: This includes children classified as a student with an emotional handicap 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 has 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).

The children's mental health program also manages and coordinates contracts for the Juveniles Incompetent to Proceed Program for children who have been committed by the courts to the department for competency restoration services.

Civil and Forensic State Mental Health Treatment Facilities: The mental health program operates or oversees services provided through 7 facilities for adults who have been committed to the department by the courts. Three of the seven facilities are managed by the mental health program while the other 4 facilities operate under department contracts with private companies. The facilities provide treatment and services to three distinct populations.

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

Behavioral Health Managed Care

For most people in Florida who are Medicaid eligible, almost all their mental health services are purchased through capitated Medicaid contracts between the Florida Agency for Health Care Administration and Health Maintenance Organizations (for their enrollees), or by contracts with Prepaid Mental Health Plans for Medipass (Medicaid's Primary Care Physician Case Manager Program) recipients. Some eligibility groups, such as those with both Medicare and Medicaid eligibility, continue to have their Medicaid mental health services provided through a fee-for-service system by providers that are enrolled with the Medicaid program. Children in the child welfare system³ receive mental health care through a specialty prepaid mental health plan jointly operated by Community-Based Care organizations and Magellan, a commercial managed care company. Medicaid substance abuse services are not capitated to managed care plans and are paid on a fee-for-service basis.

In Medicaid Reform areas Medicaid Mental Health services are provided through Health Maintenance Organizations or Provider Services Networks. Prepaid Mental Health Plans are not used in these areas.

³ enrolled in the department's Home Safe Net data system

Unlike Medicaid, mental health and substance abuse services provided through the department are not an entitlement. Subject to availability of funds, the department pays for services for Medicaid beneficiaries that are not compensable under Medicaid, such as supported employment or residential care. People who are not Medicaid eligible and otherwise qualified receive the full range of mental health and substance abuse services provided by the department. Since a very large number of Department of Children and Families mental health and substance abuse contractors are also contract providers for Health Maintenance Organizations or Prepaid Mental Health Plans these organizations are able to coordinate funding streams for Medicaid beneficiaries.⁴

Present Situation

The Legislature in s. 394.9082, F.S., directed the Department of Children and Family Services and the Agency for Health Care Administration to develop service delivery strategies to improve the coordination, integration and management of the delivery of mental health and substance abuse services. They were to contract with managing entities in at least two geographic areas to test the service delivery strategies. A managing entity is defined as an entity that manages the delivery of behavioral health services. The Legislation provided specific direction and models of service delivery strategies to be tested, including contracts with prepaid health plans and a combined pilot with districts 4 and 12. The model projects were given 13 specific goals to guide the demonstrations. The goals included:⁵

- Improve accountability for a local system of behavioral health care services to meet performance outcomes and standards.
- Assure continuity of care for all children, adolescents, and adults who enter the publicly funded behavioral health service system.
- Provide early diagnosis and treatment interventions to enhance recovery and prevent hospitalization.
- Improve assessment of local needs for behavioral health services.
- Improve the overall quality of behavioral health services through the use of best practice models.
- Demonstrate improved service integration between behavioral health programs and other programs, such as vocational rehabilitation, education, child welfare, primary health care, emergency services, and criminal justice.
- Provide for additional testing of creative and flexible strategies for financing behavioral health services to enhance individualized treatment and support services.
- Control the costs of services without sacrificing quality of care.
- Coordinate the admissions and discharges from state mental health hospitals and residential treatment centers.
- Improve the integration, accessibility, and dissemination of behavioral health data for planning and monitoring purposes.
- Promote specialized behavioral health services to residents of assisted living facilities.
- Reduce the admissions and the length of stay for dependent children in residential treatment centers.
- Provide services to abused and neglected children and their families as indicated in court-ordered case plans.

⁴ John Bryant Email dated 3-20-08, Department of Children and Families

⁵ s.394.9082 (6), F.S.

In response to this legislation, the Department of Children and Families implemented a managing entity service delivery strategy in Districts 1,4,8,11,12 and the Suncoast Region. In general the managing entity concept provides an umbrella organization that subcontracts with a network of substance abuse and/or mental health service providers in the geographic region. The managing entity is responsible for oversight of the subcontractors, and the department's relationship is primarily with the managing entity contractor.

The legislation called for an evaluation to be conducted by the Florida Mental Health Institute at the University of South Florida. The Institute published reports on projects in District 1 and 8, and a combined report on Districts 4 and 12. The legislation directed the use of a single managing entity in Districts 4 and 12.

Highlights from the evaluation report on District 1 demonstrated a lower rate of Baker Act examinations, acute care services and arrests compared to two other comparison districts. However, the use of the state hospitals was higher. The evaluator noted that there needs to be a clarification of the role between the managing entity and the Substance Abuse and Mental Health District One office. The managing entity for District One was the Lakeview Center, a prepaid mental health plan provider. The evaluation noted that the combination of provider networks for the Agency for Health Care Administration (managed care) and substance abuse and mental health provided an opportunity for more system integration and provider flexibility. The District 8 project contracted with Central Florida Behavioral Health Network as the managing entity. In this project, the evaluator noted a significant increase in the number of people served in District 8 over the baseline. District 8 also demonstrated a reduction in persons arrested and use of the state hospitals, but had a higher rate of usage of acute care services. Both the District 1 and District 8 pilot projects were able to meet a subset of the goals set forth in the legislation. The evaluator also noted that the goals set forth appear to have been overly ambitious, given the available resources to the projects⁶.

The combined report on District 4 and 12 was published in 2007. The managing entity for this combined geographic area is the North East Florida Addictions Network which was accountable for substance abuse services to child protective service recipients in these two districts. This managing entity was evaluated in the second year of the project. Many of the evaluation respondents indicated this entity had no effect on the timeliness of service delivery. However, respondents reported they had helped to streamline some services, make child welfare populations a priority and developed a clinical committee.⁷ The evaluators reported other findings including that this managing entity had helped more women and children to receive services and improved the fidelity and integrity of services provided to service recipients. Administrative costs were noted to be higher as a result of the managing entity when compared to cost prior to the project.

Effects of the Proposed Bill

The bill provides authority and direction to the department to implement managing entities to provide oversight of behavioral health service delivery under the authority of chapters 394 (mental health) and 397 (substance abuse services), Florida Statutes. The bill allows the department discretion on using the managing entity concept. The department may work through a managing entity to develop service delivery strategies to improve the coordination, integration, and management of the delivery of behavioral health services.

⁶ Evaluation of Florida's Mental Health and Substance Abuse System Redesign Strategies, Final Report, University of South Florida December 2006.

⁷ A Formative Evaluation of the North East Florida Addictions Network, University of South Florida, 2007

Legislative findings and intent: The bill provides Legislative findings and intent to support the key elements of the proposed legislation. Some of the key findings listed include:

- Local communities have made substantial investments in behavioral health services.
- Management through a single private nonprofit entity at the local level promotes improved access to care, continuity of care and is a more efficient and effective structure.
- Transformation of existing data structures into decision-making models is required to provide information and support the system of care.
- Streamlining the administrative processes creates efficiencies and provides flexibility to better match services to the consumer's need.

Definitions: The bill adds 5 definitions including; behavioral health, decision-making model, geographic area, provider network, and managing entity. The managing entity is the organization that contracts with the department and provides oversight of the behavioral services network and is defined as follows:

"Managing entity" means a Florida corporation that is exempt from taxation under s. 501(c)(3), of the Internal Revenue Code and is under contract to the department to manage the day-to-day operational delivery of behavioral health services through the establishment of an organized system of care.

Data Sharing Agreements: The bill requires the department to enter into data sharing agreements with other state agencies for a consumer oriented reporting system.

Contract for Services: The bill provides the department the option of contracting with a managing entity for behavioral health services provided under the authority of chapters 394 and 397, Florida Statutes. The bill allows currently operating managing entities that provide mental health, substance abuse, Medicaid and child welfare services to continue operating with this broader structure. The Secretary of the department is given authority to determine the schedule for phasing in a contract with a managing entity.

The bill includes language that recognizes there will be start-up cost for the managing entities. In addition, the department is to negotiate a reasonable and appropriate administrative cost rate with the managing entities.

The operating cost of the managing entity contracts is to be funded by the department and through savings and efficiencies achieved by implementing the managing entities. The bill provides Legislative intent that reductions in state cost for contract management and administrative duties be proportionately reduced and the savings used to fund the administrative functions of the managing entity. .

Contract Payment: The bill provides specific language that allows the department to employ prepaid case rate, prepaid capitation and care management methodologies. Payment mechanisms are to promote flexibility and allow the integration of fund categories at the point of service delivery.

Goals: The bill includes an overall goal which is to provide a *design* for an effective, coordinated and integrated management approach for delivering behavioral health services. The bill enumerates various system and quality of care goals for the managing entity system of service delivery.

Essentials (for a Managing Entity): This section of the bill provides various requirements for managing entities and the department. Examples of the required essential elements included in this section are:

- Managing entities must own and operate information systems with the capacity to do state and federal reporting, monitor care, assess needs and measure outcomes.
- Managing entities must have a broadly conceived network. All current mental health or substance abuse providers under contract shall be offered a contract by the managing entity.
- Managing entities are required to enter into agreements with the criminal and juvenile justice systems, the local community-based care network and behavioral health providers to address diverting people from the criminal justice system to community based services.
- The department may contract for 20 core functions listed in the amendment.
- The department shall evaluate the managing entities based on consumer centered outcome measures. The department will work with the entities to set performance standards relating to: the extent to which individuals live in community, quality improvement, success in diversion from jail, prison, or forensic admissions, consumer/family satisfaction and key constituent satisfaction.

The bill also gives the Agency for Health Care Administration (AHCA) permission to establish a voluntary certified match program. AHCA is authorized to seek federal waivers for this match program. This program would allow local funds to be used to draw federal matching funds.

Managing Entities Requirements

The bill gives the department authority to set standards and a process for the qualification and operation of managing entities. These minimum standards are to be based in part on the following:

- The governing bodies of managing entities must include consumers, family members, stakeholders and service providers.
- Existing managing entities must detail an approach to include substance abuse and mental health providers in their governance structure.
- Managing entities must submit plans and budgets to the department for approval that demonstrate efficiencies to be gained from the contract. The department may contract with a managing entity that demonstrates readiness to implement core functions.
- Managing entities are required to provide public access to information, notice of meetings and opportunities for broad public participation.

Departmental Responsibilities

The circuit and region offices of the department, upon contracting with a managing entity, are to redirect their efforts to monitoring the managing entity contract, negotiating quality improvement goals, reviewing plans, licensing functions, health planning activities, conducting onsite readiness reviews of managing entities and communicating with and advising department headquarters. The bill directs the department to develop policies that eliminate duplication between their role and the role of the managing entity.

The department is also required to engage community stakeholders in the development of standards to measure competencies, readiness and outcomes of managing entities.

The bill also directs the Department of Financial Services and Department of Management Services to provide the Department of Children and Families with the flexibility needed to implement this section of statute.

Management Information System

The department in collaboration with the managing entities is to design and implement a comprehensive behavioral management information system. Certain specifications for the system are included in the text. The bill also gives the department permission to outsource through contract the development, maintenance and operation of the central data system.

Reporting

The department is required to submit semi-annual reports to the Legislature until full transition to managing entities has been accomplished statewide. The required elements of the report are also specified in the legislation.

C. SECTION DIRECTORY:

Section 1. Amends s.394.9082, F.S. related to behavioral health managing entities.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:.

1. Revenues:

None.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The department has submitted the following statement in its fiscal note:

This amendment (strike all adopted at Healthy Families Committee) to s. 394.0982, F.S. is permissive and authorizes the department to implement managing entities across the state. The amendment provides that funds for the cost of managing entities will be funded by the department and savings and efficiencies realized through the implementation of managing entities.

Our experience to date indicates that the operation of managing entities can be funded through efficiencies realized by the department in reduced contract management activities and contracting functions and activities such as utilization management and TANF administration. Given the permissive language in the amendment, the department believes that the provisions of the bill can be implemented on an incremental basis, without additional fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 8, 2008, the Healthcare Council adopted a strike all amendment which is addressed in the body of the staff analyses. See Effect of Proposed Changes section.

The bill was reported favorably as a Council Substitute. The analysis reflects the Council Substitute.