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 Committee on Children, Families, and Elder Affairs

BILL:	CS/SB 1016
INTRODUCER:	Children, Families, and Elder Affairs Committee and Senator Rouson
SUBJECT:	Mental Health and Substance Abuse
DATE:	April 6, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	**Fav/CS**
2.			AHS	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1016 revises several statutory provisions relating to the state's managing entities (MEs). The bill requires the Department of Children and Families (DCF) to complete an analysis of the use of funding designations and contract deliverables with the MEs every three years. The bill also requires the DCF to review ME assessments and enhancement plans for inclusion in the DCF's legislative budget requests (LBRs).

The bill requires the MEs to collaborate with county emergency operation centers to identify organizations that ensure access to, and coordinate delivery of, behavioral health services to responders and survivors and survivor's family members of a public emergency as critical public health infrastructure.

The bill requires MEs to develop and submit needs enhancement plans to the DCF by June 1 of each year, rather than September 1, and specifies that the MEs must collect acute care services utilization data only on contracted public receiving facilities situated within the respective geographic region of each ME.

The bill will likely have an indeterminate negative impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Managing Entities

The DCF administers a statewide system of safety-net services for SAMH prevention, treatment and recovery for children and adults who are otherwise unable to obtain these services. SAMH programs include a range of prevention, acute interventions (e.g. crisis stabilization), residential treatment, transitional housing, outpatient treatment, and recovery support services. Services are provided based upon state and federally-established priority populations.[1]

In 2001, the Legislature authorized the DCF to implement behavioral health managing entities (ME) as the management structure for the delivery of local mental health and substance abuse services.[2] The implementation of the ME system initially began on a pilot basis and, in 2008, the Legislature authorized the DCF to implement MEs statewide.[3] Full implementation of the statewide managing entity system occurred in 2013 and all geographic regions are now served by a ME.[4]

Contracted MEs

The MEs are required to comply with various statutory duties, including, in part, to:
- Maintain a governing board;
- Promote and support care coordination;[5]
- Develop a comprehensive list of qualified providers;
- Monitor network providers' performances;
- Manage and allocate funds for services in accordance with federal and state laws, rules, regulations and grant requirements; and
- Operate in a transparent manner, providing access to information, notice of meetings, and opportunities for public participation in ME decision making.[6]

The DCF contracts with seven MEs as shown in the map below and summarized as follows:
- Big Bend Community Based Care, Inc. d/b/a NWF Health Network (blue);
- Lutheran Services Florida (yellow);
- Central Florida Cares Health System (orange);
- Central Florida Behavioral Health Network, Inc. (red);
- Southeast Florida Behavioral Health Network (pink);
- Broward Behavioral Health Network, Inc. (purple); and
- Thriving Mind South Florida (South Florida Behavioral Health Network, Inc.) (beige).[7]

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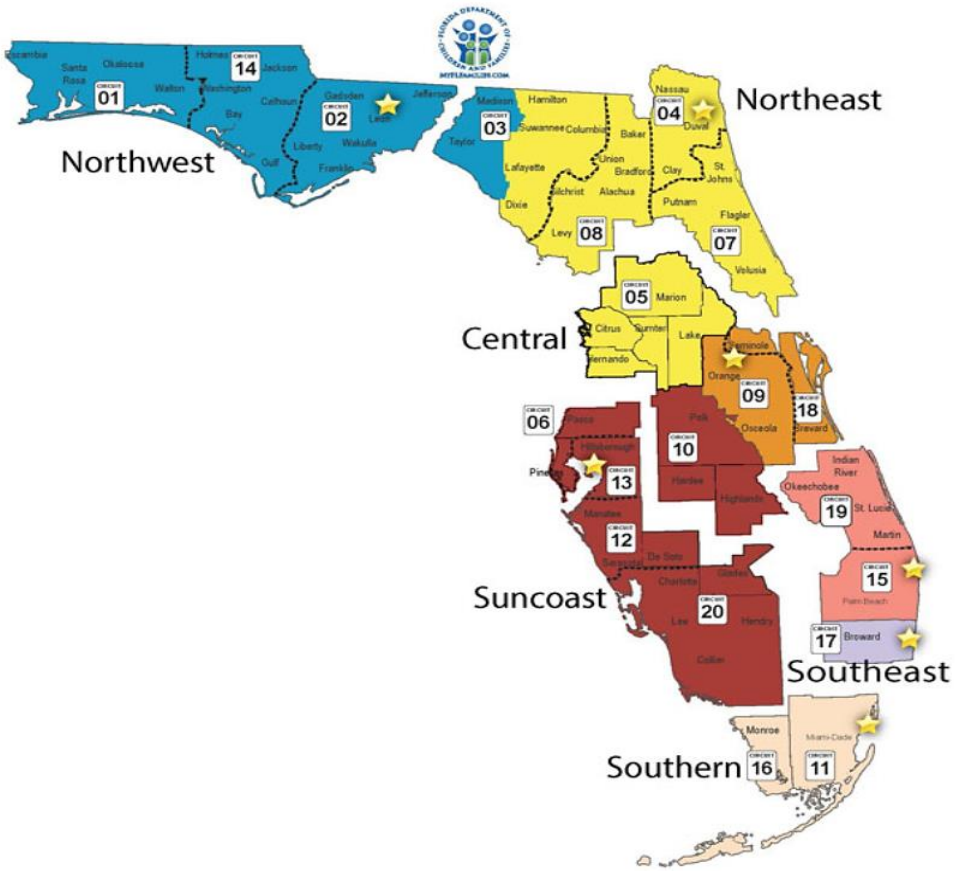
[1] *See* chs. 394 and 397, F.S.
[2] Chapter 2001-191, L.O.F.; codifying s. 394.9082, F.S.
[3] Chapter 2008-243, L.O.F.
[4] Florida Tax Watch, *Analysis of Florida's Behavioral Health Managing Entity Models*, p. 4, March 2015, available at https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15758/Analysis-of-Floridas-Behavioral-Health-Managing-Entities-Model (last visited March 29, 2023).
[5] Section 394.9082(5)(g), F.S. Section 394.9082(6), F.S.,sets out the network accreditation and systems coordination agreement requirements.
[6] Section 394.9082(5), F.S.
[7] The DCF, *Managing Entities*, https://www.myflfamilies.com/services/substance-abuse-and-mental-health/samh-providers/managing-entities (last visited March 29, 2023).



The MEs in turn contract with local service providers for the delivery of mental health and substance abuse services.[8]

Coordinated System of Care

Managing entities are required to promote the development and implementation of a coordinated system of care.[9] A coordinated system of care means a full array of behavioral and related services in a region or community offered by all service providers, participating either under contract with a managing entity or by another method of community partnership or mutual agreement.[10] A community or region provides a coordinated system of care for those suffering from mental illness or substance abuse disorder through a no-wrong-door model, to the extent allowed by available resources.[11]

There are several essential elements which make up a coordinated system of care, including:

- Community interventions;

[8] Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.
[9] Section 394.9082(5)(d), F.S.
[10] Section 394.4573(1)(c), F.S.
[11] Section 394.4573(2)(b)2., F.S.

- Case management;
- Care coordination;
- Outpatient services;
- Residential services;
- Hospital inpatient care;
- Aftercare and post-discharge services;
- Medication assisted treatment and medication management; and
- Recovery support.[12]

A coordinated system of care must include, but is not limited to, the following array of services:
- Prevention services;
- Home-based services;
- School-based services;
- Family therapy;
- Family support;
- Respite services;
- Outpatient treatment;
- Crisis stabilization;
- Therapeutic foster care;
- Residential treatment;
- Inpatient hospitalization;
- Case management;
- Services for victims of sex offenses;
- Transitional services; and
- Trauma-informed services for children who have suffered sexual exploitation.[13]

The DCF and ME Contracts

The DCF has a number of statutory duties with respect to overseeing and contracting with MEs. Specifically, the DCF must:
- Contract with organizations to serve as managing entities in accordance with the requirements of this section and conduct a readiness review of any new managing entities before such entities assume their responsibilities.
- Specify data reporting requirements and use of shared data systems;
- Define the priority populations that will benefit from receiving care coordination;
- Support the development and implementation of a coordinated system of care by requiring each provider that receives state funds for behavioral health services through a direct contract with the department to work with the ME in the provider's service area to coordinate the provision of behavioral health services as part of the contract with the DCF;
- Provide technical assistance to the MEs;
- Promote the coordination of behavioral health care and primary care;
- Facilitate coordination between the ME and other payors of behavioral health care;

[12] Section 394.4573(2)(b)2., F.S.
[13] Section 394.495(4), F.S.

- Develop and provide a unique identifier for clients receiving behavioral health services through the ME to coordinate care;
- Coordinate procedures for the referral and admission of patients to, and the discharge of patients from, treatment facilities and their return to the community;
- Ensure that MEs comply with state and federal laws, rules, regulations, and grant requirements;
- Develop rules for the operations of, and the requirements that shall be met by, the ME, if necessary;
- Periodically review contract and reporting requirements and reduce costly, duplicative, and unnecessary administrative requirements; and
- Collect and publish, and update annually, certain information on the website of each ME.[14]

In contracting for services with MEs, the DCF is required to first attempt to contract with not-for-profit, community-based organizations with competence in managing provider networks serving persons with mental health and substance use disorders to serve as MEs.[15] The DCF must issue an invitation to negotiate (ITN) under s. 287.057, F.S., to select an organization to serve as a ME. If the DCF receives fewer than two responsive bids to the solicitation, the DCF is required to reissue the solicitation and managed behavioral health organizations[16] are then eligible to bid and be awarded a contract.[17]

If the DCF issues an ITN as described above, the DCF must consider, at a minimum, the following factors:

- Experience serving persons with mental health and substance use disorders;
- Established community partnerships with behavioral health care providers;
- Demonstrated organizational capabilities for network management functions;
- Capability to coordinate behavioral health services with primary care services; and
- Willingness to provide recovery-oriented services and systems of care and work collaboratively with persons with mental health and substance use disorders and their families in designing such systems and delivering such services.[18]

The DCF's contracts with MEs must support efficient and effective administration of the behavioral health system and ensure accountability for performance.[19] A contractor serving as a ME must operate under the same data reporting, administrative, and administrative rate requirements, regardless of whether it is a for-profit or not-for-profit entity.[20] The contract must designate the geographic area that will be served by the ME, which area must be of sufficient size in population, funding, and services to allow for flexibility and efficiency.[21] The contract must also require that, when there is a change in the ME in a geographic area, the ME must work

[14] Section 394.9082(3), F.S.
[15] Section 394.9082(4)(a), F.S.
[16] Section 394.9082(2)(d), F.S., defines a "managed behavioral health organization" to mean "a Medicaid managed care organization currently under contract with the statewide Medicaid managed medical assistance program in this state pursuant to part IV of ch. 409, F.S., including a managed care organization operating as a behavioral health specialty plan."
[17] Section 394.9082(4)(b), F.S.
[18] Section 394.9082(4)(e), F.S.
[19] Section 394.9082(4)(f), F.S.
[20] Section 394.9082(4)(g), F.S.
[21] Section 394.9082(4)(h), F.S.

with the DCF to develop and implement a transition plan that ensures continuity of care for patients receiving behavioral health services.[22]

Current law provides that by June 30, 2019, if all other contract requirements and performance standards are met and the DCF determines that an ME under contract as of July 1, 2016, has received network accreditation, the DCF may continue its contract with the ME for up to, but not exceeding, 5 years, including any and all renewals and extensions.[23] Thereafter, the DCF must issue a competitive solicitation.[24]

Among the seven current contracts between the DCF and the MEs, two expire in June 2024 and are not eligible for additional renewals.[25] The remaining five ME contracts expire June 2023, and they are in the process of receiving a final one-year renewal in anticipation of a competitive solicitation, pursuant to current standards in statute.[26]

Duties of MEs

MEs are required to conduct a community behavioral health care needs assessment every three years in the geographic area served by the respective ME which identifies needs by sub region.[27] The assessment must also include a list and descriptions of any gaps in the arrays of services for children or adolescents identified pursuant to s. 394.4955, F.S., and recommendations for addressing such gaps.[28] The ME must provide the needs assessment to the DCF.[29] MEs must also work collaboratively with public receiving facilities and licensed housing providers to establish a network of licensed housing resources for mental health consumers that will prevent and reduce readmissions to public receiving facilities.[30]

ME Duties: Enhancement Plans and Acute Care Services Data

MEs are required to develop and submit to the DCF a description of strategies for enhancing services and addressing three to five priority needs in the ME's service area.[31] The planning process sponsored by the ME must include consumers and their families, community-based care lead agencies, local governments, law enforcement agencies, service providers, community partners and other stakeholders.[32] Each strategy must be described in detail and accompanied by an implementation plan that specifies action steps, identifies responsible parties, and delineates specific services that would be purchased, projected costs, the projected number of individuals that would be served, and the estimated benefits of the services.[33] All or parts of these

[22] Section 394.9082(4)(i), F.S.
[23] Section 394.9082(4)(j), F.S.
[24] *Id*.
[25] The DCF, *Agency Analysis of SB 1016*, p. 2. (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The DCF Analysis").
[26] *Id*.
[27] Section 394.9082(5)(b), F.S.
[28] *Id*.
[29] *Id*.
[30] Section 394.9082(5)(l), F.S.
[31] Section 394.9082(8), F.S.
[32] *Id*.
[33] *Id*.

enhancement plans may be included in the DCF's annual budget requests submitted to the Legislature.[34]

The DCF must also develop, implement, and maintain standards under which an ME must collect utilization data from all public receiving facilities situated within its geographical service area and all detoxification and addictions receiving facilities under contract with the ME.[35]

Receiving and Treatment Facilities

The DCF is authorized to designate and monitor receiving facilities, treatment facilities, and receiving systems and may suspend or withdraw such designations for failure to comply with Florida law.[36] Unless specifically designated by the DCF, facilities are not permitted to hold or treat involuntary patients experiencing a mental health or substance use disorder crisis.[37] The DCF has authority to designate any community-based facility as a receiving facility.[38]

The DCF may also specifically designate any state-owned, state-operated, or state-supported facility as a state treatment facility.[39] The DCF can designate any other facility, including private and federal facilities, as either a receiving facility or a treatment facility provided that the governing board or authority of such facility agrees to the designation.[40] Private facilities designated as receiving and treatment facilities by the DCF may provide examination and treatment of involuntary patients, as well as voluntary patients.[41]

III. Effect of Proposed Changes:

The bill removes a requirement for MEs to lead the development of a plan that promotes the development and effective implementation of a coordinated system of behavioral health care serving children and adolescents throughout the state. The bill expands the responsibility of MEs from planning the system of care to also leading the implementation of the system.

The bill also requires the DCF, as part of its duties related to the MEs, to complete an analysis of the use of funding designations and contract deliverables with the MEs every three years.

The bill permits, rather than requires, the DCF to issue an invitation to negotiate (ITN) to select organizations to serve as MEs if the DCF does not receive two responsive bids. As under current law, managed behavioral health organizations will be eligible to bid and be awarded a contract.

The bill requires the DCF, in consultation with ME representatives, to review the three year needs assessments performed by the MEs for inclusion in the DCF's LBR. The bill also requires the MEs to collaborate with county emergency operation centers to identify organizations that ensure access to, and coordinate delivery of, behavioral health services to responders and

[34] *Id*.
[35] Section 394.9082(10), F.S.
[36] Section 394.461, F.S.
[37] *Id*.
[38] Section 394.461(1), F.S.
[39] Section 394.461(2), F.S.
[40] Section 394.461(1) and (2), F.S.
[41] Section 394.461(3), F.S.

survivors and survivor's family members of a public emergency as critical public health infrastructure.

The bill requires MEs to develop and submit needs enhancement plans to the DCF by June 1 of each year, rather than September 1. The bill also requires, rather than permits as in current law, the DCF to consider enhancement plans submitted by the MEs in the DCF's LBR.

The bill specifies that the MEs collect acute care services utilization data only on contracted public receiving facilities situated within the respective geographic region of each ME.

The bill makes a number of conforming changes and deletes obsolete language relating to deadlines for ME contract requirements.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.494, 394.4955, and 394.9082 of the Florida Statutes.

IX. Additional Information:

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

Committee Substitute by Children, Families, and Elder Affairs on April 4, 2023:

The Committee Substitute:

- Removes language allowing managing entities (MEs) develop and implement the state's coordinated system of behavioral healthcare.
- Removes the sections of the bill repealing ss. 394.74, 394.75, and 394.76, F.S., and all conforming changes and cross-references related to such repeals.
- Removes the following requirements for the DCF:
- Work with the MEs and allow MEs to have direct input when reviewing expenditures to determine funding of appropriate services and reduce administrative burdens.
- Complete a review of all reports submitted by MEs for the purpose of reducing administrative burdens by identifying obsolete, duplicative, and uninformative reports.
- Removes a modification to the statutory definition of 'managing entity' which would have clarified that MEs do not provide therapeutic services and are eligible to receive federal block grant funding.
- Removes the ability for the DCF to renew ME contract requirements beyond the statutory limit of 5 years if the ME meets its contractual and performance requirements.
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- Requires the DCF to complete an analysis of the use of funding designations and contract deliverables with the MEs every three years.

B. Amendments:

None.