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CMH: INTERSTATE RECIPROCITY

House Bill 4001

Sponsor: Rep. David Anthony

Committee: Mental Health

Complete to 2-27-95

A SUMMARY OF HOUSE BILL 4001 INTRODUCED 1-11-95

The bill would add a new section to the Mental Health Code that would allow reciprocity between county community mental health programs in Michigan and public or private mental health agencies in bordering states. More specifically, Michigan community mental health (CMH) programs would be able to contract (a) for services from agencies in bordering states to be provided to people needing mental health treatment who received services through the CMH program and (b) to provide services in approved treatment facilities for residents from bordering states who needed mental health services, unless the individual were involved in criminal proceedings.

Contracts. Contracts entered into under the bill's provisions couldn't be validly executed (a) until the Department of Mental Health reviewed and approved them (and decided that the agency in the other state provided services in accordance with Michigan standards) and (b) until the attorney general certified that the other state's patients' rights laws were substantially similar to Michigan law.

Each contract executed under the bill's provisions would have to do all of the following:

(1) Establish who would pay for each service provided under the contract (though charges to the "sending" state couldn't be more or less than the actual costs of providing the services).

(2) Establish who was responsible for transporting people to and from the public or private agency or community mental health program that provided the mental health treatment services.

(3) Require the "receiving agency" to report to the "sending agency" on the condition of each individual covered by the contract.

(4) Require arbitration of disputes (and specify how the arbitrators would be picked) between the contracting parties that couldn't be settled through discussion.

(5) Include legally required nondiscriminatory treatment provisions for employees and for individuals receiving mental health services (and applicants for employment or such services).

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(6) Establish who would be responsible for providing legal representation, both for clients questioning the legality of their admission and the conditions of their involuntary inpatient treatment and for employees of the contracting agencies who were sued by clients.

(7) Include provisions concerning the length of the contract and how it could be terminated.

(8) Allow employees or representatives of the "sending agency" and "sending" state to inspect ("at all reasonable times") the records of the receiving agency (and its treatment facilities) in order to decide whether "appropriate standards of care" were met for people who received mental health services under the contract.

(9) Require the "sending agency" to give the "receiving agency" copies of ("all relevant") legal documents that authorized the involuntary inpatient treatment of people who were hospitalized under the laws of the sending state and who were receiving mental health services under a contract under the bill.

(10) Require people who voluntarily sought mental health treatment to agree in writing to return to the sending state when they asked to be discharged under the bill's provisions, as well as require that someone from the "sending agency" certify that the client understood that agreement.

(11) Establish who would be responsible for having clients reexamined and for having involuntary inpatient treatment extended.

(12) Include provisions that specified when a "receiving facility" could refuse to admit or keep someone requiring mental health treatment.

(13) Specify the circumstances under which clients would be allowed home visits or granted passes to leave their treatment facility.

People in involuntary treatment. Michigan residents and residents of bordering states who had been involuntarily detained, committed, or placed under civil law could be admitted and treated under contracts described in the bill. When people who had been involuntarily detained, committed, or placed under the law of the sending state were transferred to a receiving state, they would stay in the legal custody of the authority responsible for them under the law of the sending state. Except in emergencies, such people couldn't be moved or furloughed from the receiving agency without the specific approval of whomever was legally responsible for them in the sending state.

To the extent that a court order related to admission for the treatment or care of a mental disability, court orders valid in the law of the sending state would be granted recognition and reciprocity in the receiving state for individuals covered by contracts described in the bill. Such court orders wouldn't be subject to legal challenge in the receiving state.

Except for laws and regulations in the sending state regarding the length and extensions of involuntary inpatient treatment and reexaminations, people who were receiving mental health services in another state under a contract described in the bill would be subject to all of that state's laws and regulations regarding detention, commitment, or placement. Michigan residents couldn't be sent for mental health services in another state under a contract described in the bill unless the other state had a reciprocity law.

Unauthorized leave from involuntary treatment. If someone who was receiving mental health services under a contract described in the bill left involuntary treatment from a receiving agency without authorization, the receiving agency would be required to use "all reasonable means" to locate and return the individual and immediately report his or her unauthorized leave of absence to the sending agency. The receiving state would have primary responsibility for, and the authority to direct, the return of individuals within its borders, and it would be liable for the costs of such actions to the same extent it would be liable for the costs of returning its own residents who left treatment without authorization.

Discharge from voluntary treatment. If someone were receiving mental health treatment voluntarily under a contract described in the bill and asked to be discharged, the receiving agency would have to immediately notify the sending agency and would have 48 hours from the time of the patient's request (excluding weekends and legal holidays) to return him or her to the sending agency. When such individuals were returned to their sending agency, the agency would have to either immediately discharge them or else detain them under the emergency detention laws of the sending state.

Other provisions. Treatment of Michigan residents in other states or of residents of other states in Michigan under the bill's provisions wouldn't establish legal residency in the state where the receiving agency was located. People needing mental health services could be transferred between facilities of a receiving state if transfers were allowed by the contract providing for their care. Finally, the Mental Health Code's provisions regarding the confidentiality of treatment records would apply to the treatment records of someone receiving mental health services under a contract described in the bill, except that the sending agency would have access to confidential information when the information was necessary in order for the sending agency to discharge a legal responsibility.

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