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BILL ANALYSIS

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Senate Bills 1418 and 1419 (as enrolled)  
Sponsor: Senator Bev Hammerstrom (Senate Bill 1418)  
Senator Shirley Johnson (Senate Bill 1419)  
Senate Committee: Families, Mental Health and Human Services  
House Committee: Health Policy

**PUBLIC ACTS 409 and 410 of 2000**

Date Completed: 3-6-01

## **RATIONALE**

Michigan is currently under a Federal waiver as to how the State delivers Medicaid specialty services for the seriously mentally ill, the developmentally disabled, and those who suffer from addictive disorders. The Department of Community Health (DCH) has submitted a plan requesting a further waiver from Federal Health Care Financing Administration (HCFA) requirements regarding the management and delivery of these services. Those requirements include a competitive bid process to award contracts to prospective managing entities. The latest waiver application suggests an alternative to the HCFA-required strict competitive procurement process. In Michigan, Medicaid-covered mental health services, developmental disability services, and substance abuse services traditionally have been provided through community mental health (CMH) services programs, and the DCH's proposed waiver would continue that arrangement but with some refinement. Some feel that, regardless of whether Michigan is required to award these managed care contracts on a competitive bid basis or the DCH waiver application is approved, there should be a broad base for input by consumers, family members, and advocacy groups on how specialty services are provided and who should provide them. It was suggested that an advisory panel be established to review and make recommendations on such things as performance and quality by CMH services programs and other managing entities in providing for Medicaid specialty services.

In addition, it has been the practice of the DCH to "carve out" these specialty services from the managed care programs that provide physical health services to Medicaid recipients, and that practice has typically been required by annual appropriations bills. Many thought that this carve-out practice should be codified in statute so that funding from the basic Medicaid health care benefit package for specialty services and supports can be maintained separately from Medicaid managed care programs for physical

health services.

## **CONTENT**

**Senate Bill 1418** amended the Social Welfare Act to require the Governor to create within the Department of Community Health a specialty services panel, which must review and make determinations regarding applications for participation submitted by community mental health services programs or other managing entities, and serve in an advisory capacity to the DCH Director.

**Senate Bill 1419** amended the Social Welfare Act to do all of the following:

- Require the DCH to support the use of Medicaid funds for specialty services and supports for eligible Medicaid beneficiaries with a serious mental illness, developmental disability, serious emotional disturbance, or substance abuse disorder.
- Require that Medicaid-covered specialty services and supports be managed and delivered by specialty prepaid health plans chosen by the DCH with advice and recommendations from the specialty services panel appointed under Senate Bill 1418.
- Require the specialty services and supports to be carved out from the basic Medicaid health care benefits package.

Senate Bill 1419 was tie-barred to Senate Bill 1418.

A more detailed description of **Senate Bill 1418** follows.

In addition to reviewing applications and making determinations for participation, the specialty services panel is to serve in an advisory capacity to

the DCH Director regarding performance and quality relating to Medicaid specialty services and supports. The panel must have access to all aggregate quality management information gathered by the DCH relating to the managing entities.

The specialty services panel must consist of the following members, appointed by the Governor:

- The DCH Director, or the Director's representative.
- Two other members representing the DCH.
- The Director of the Department of Management and Budget, or the Director's representative.
- Four members representing primary consumers or family members.
- Five members representing other stakeholders, including one representative each from the statewide advocacy organizations representing adults with serious mental illness, children with serious emotional disturbance, individuals with substance abuse disorders, and individuals with developmental disabilities. (At least one of these five members must be a county commissioner.)

None of the members representing primary consumers or family members or other stakeholders may provide direct services or represent those who provide services, for reimbursement under the Social Welfare Act, to an individual who qualifies for specialty services. In addition, a member of the panel is required to make known any matter in which he or she has a potential conflict of interest.

Panel members are to serve four-year staggered terms, or until a successor is appointed, whichever is later. If a vacancy occurs on the panel, the Governor must make an appointment for the unexpired term in the same manner as the original appointment.

The panel must meet at least twice per year, and remain in existence to serve in an advisory capacity to the DCH Director.

MCL 400.109g (S.B. 1418)  
400.109f (S.B. 1419)

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

By codifying the practice in statute, Senate Bill 1419 preserves the traditional DCH practice of carving out funding from the basic Medicaid health benefit package for mental health, substance abuse, and developmental disability services. Otherwise,

Medicaid recipients could be left with a managed health care plan that might not necessarily meet their needs for these services. With the carve-out, the DCH is able to contract with the 49 county-sponsored CMH services programs to serve as the specialty prepaid health plan for their designated geographic service areas. By ensuring that this practice continues, the bill will preserve continuity of care and avoid confusion for Medicaid beneficiaries.

In addition, Senate Bill 1418 requires the Governor to establish an advisory panel to provide input on the service delivery system for mental health, developmental disability, and substance abuse services. Several panel members will be those who receive the services, or members of their families. Since these people have direct experience with the services being provided, their input will be valuable in efforts to make the system more user friendly and efficient. Also, by having the DCH, the Department of Management and Budget, a county commissioner, and statewide advocacy groups represented on it, the panel will include expertise in the delivery of specialty services.

### **Opposing Argument**

The DCH's ability to contract with the CMH service providers as the sole source for managing and providing the prepaid health plans may come to an end soon. Unless the recent DCH waiver application is approved, Michigan will have to move to a competitive bid format for the delivery of specialty services, as required by HCFA.

**Response:** Regardless of whether HCFA accepts the DCH plan for a waiver application, or requires the State to go to a competitive bid process for awarding those contracts, the bills are sensible. The carve-out practice will continue regardless of whether the State has to go to an open, competitive bid policy or retains the ability to contract with the CMH services providers. If the State has to change how it contracts for specialty services, and especially if it has to change the entities it contracts with for those services, the advisory panel will serve an important role in gathering information and making recommendations as to who should be awarded the contracts and how the services should be delivered. Also, it will be beneficial to have a panel operating and functioning as a team before any major changes have to be made.

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

### **Senate Bill 1418**

The only costs that might result from this bill are the per diem costs for the specialty services panel's meetings.

**Senate Bill 1419**

This bill effectively codifies existing State policy. The only change is the possibility of other organizations' becoming a gate-keeper for mental health services.

Fiscal Analyst: S. Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.