Legislative Analysis

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ASSISTED OUTPATIENT TREATMENT

Senate Bill 683 (Substitute H-1)
Sponsor: Sen. Tom George

Senate Bill 684 (Substitute H-1)
Sponsor: Sen. Bruce Patterson

Senate Bill 685 (Substitute H-1)
Sponsor: Sen. Virg Bernero

Senate Bill 686 (Substitute H-1)
Sponsor: Sen. Gilda Z. Jacobs

Senate Committee: Health Policy
House Committee: Health Policy

Complete to 11-30-04

A SUMMARY OF SENATE BILLS 683-686 AS REPORTED FROM COMMITTEE

The bills would amend the Mental Health Code to do the following:

- **Establish criteria for "assisted outpatient treatment" (AOT) under a court order.**
- **Require AOT to include case management services or assertive community treatment team services.**
- **Limit the duration of an AOT order.**
- **Allow a court to order hospitalization if a person is not complying with an AOT order.**
- **Extend the ability of a community mental health services program (CMHSP) to carry forward a percentage of its operating budget, and increase the percentage if the program offered AOT services.**

The following is a more detailed description of the bills.

Senate Bill 683 (MCL 330.1401) would expand the definition of "person requiring treatment" for the purpose of court-ordered involuntary treatment, to include an individual who has mental illness, who is currently noncompliant with treatment recommended by a mental health professional, and whose noncompliance has been a factor in his or her placement in a psychiatric hospital, prison, or jail at least twice within the last 48 months or in the commission of one or more acts, attempts, or threats of serious violent behavior toward himself or herself or others within the last 48 months that placed himself, herself, or others at a substantial risk of death or serious bodily injury as described in the bill. An individual meeting these criteria would be eligible to receive assisted outpatient treatment.

Senate Bill 684 (330.1226 et al.) would add Section 433 to the code to provide for a court order for AOT.

Under the bill, any individual at least 18 years old could file a petition asserting that a person met the criteria for AOT. The court would have to hold a hearing to determine whether the subject of the petition met the criteria. If the court verified that he or she met the criteria and was not scheduled to begin a course of outpatient mental health treatment that included case management services or assertive community treatment team services, the court would have to order the person to receive AOT through his or her local CMHSP. The order would have to include case management services or assertive community treatment team services.

In developing the order, the court would have to consider any preferences and medication experiences reported by the subject of the petition or his or her designated representative, and any directions included in a durable power of attorney or an advance directive that existed.

If the subject had not previously executed a patient advocate or advance directive, the responsible CMHSP would have to ascertain whether he or she desired to establish an advance directive and offer to provide assistance in developing one.

The bill specifies that nothing in proposed Section 433 would negate or interfere with an individual's right to appeal under any other state law or Michigan court rule.

The bill also would amend Section 469a to require a court order for AOT as an alternative to hospitalization to include case management services or assertive community treatment team services. The bill's provisions regarding the content of an AOT order, and consideration of preferences, medication experiences, and directions in a power of attorney or advance directive, would apply.

In addition, the bill would allow a CMHSP to carry forward the operating margin up to 5 percent of its state share of the operating budget for fiscal years 2004-05, 2005-06, 2006-07, and 2007-08 (as has been allowed for previous fiscal years). If an appropriation was made for AOT services for a fiscal year, a CMHSP that provided AOT services could be eligible for reimbursement. Such a reimbursement would be in addition to any funds that the CMHSP was otherwise eligible to receive for providing AOT services.

Senate Bill 685 (330.1472a et al.) would limit an initial order of AOT to 180 days. An initial order for combined hospitalization and AOT could not exceed 180 days, with the hospitalization portion being not more than 60 days. A second order of AOT could not exceed one year, and a continuing order of AOT could not exceed one year.

If an agency or mental health professional supervising an individual's AOT determined that he or she was not complying with the court order, the agency or mental health professional would have to notify the court immediately. If it came to the court's attention that a person subject to an AOT order was not complying with it, the court could require,

without a hearing, that the individual be hospitalized for the duration of the order. An individual who had been hospitalized without a hearing could, under the bill, object to the hospitalization according to the provisions of Section 475a.

Senate Bill 686 (330.1472a et al.) would define "assisted outpatient treatment" as the categories of outpatient services ordered by the court under Section 433 or 469a (under Senate Bill 684). The term would include case management services to provide care coordination. Assisted outpatient treatment also could include one or more of the following categories of services:

-- Medication.

-- Periodic blood tests or urinalysis to determine compliance with prescribed medications.

-- Individual or group therapy.

-- Day or partial day programming activities.

-- Vocational, educational, or self-help training or activities.

-- Alcohol or substance abuse treatment and counseling.

-- Periodic testing for alcohol or illegal drugs for a person with a history of alcohol or substance abuse.

-- Supervision of living arrangements.

In addition, AOT could include any other services within a local or unified services plan developed under the code, that were prescribed to treat the individual's mental illness and to assist the person in living and functioning in the community or to attempt to prevent a relapse or deterioration that could reasonably be predicted to result in suicide, the need for hospitalization, or serious violent behavior that placed the individual or others at a substantial risk of death or serious injury.

The bill would require the Department of Community Health (DCH) to make available on its website an annual report concerning AOT services in Michigan.

The bills are tie-barred to each other and to Senate Bill 1464, which would amend the Estates and Protected Individuals Code to allow an individual to designate a patient advocate to exercise powers regarding his or her mental health treatment decisions.

FISCAL IMPACT:

The bills could increase costs for local courts due to requirements for judicial investigations, hearings, orders, and reviews pertaining to assisted outpatient treatment petitions and plans.

Court orders for assisted outpatient treatment services as defined in the Mental Health Code will result in additional costs for CMHSPs if CMHSPs' funds for non-Medicaid eligible persons with mental illness are not redirected from those persons currently receiving mental health services. The increased costs conceivably will be offset if CMHSPs providing assisted outpatient treatment services are reimbursed for those costs.

CMHSPs would continue to be permitted to carry forward up to 5% of their operating margin for Fiscal Years 2005, 2006, 2007, and 2008. Information from the Department of Community (DCH) indicates that $7.7 million was carried forward by CMHSPs in Fiscal Year 2002-03.

Minimal administrative costs will also be incurred by the DCH as the proposed legislation requires an annual report on assisted outpatient treatment services that would include: statewide information on the number of individuals receiving and completing assisted outpatient treatment; costs and benefits projections; information on assisted outpatient treatment petitions; and an evaluation of assisted outpatient treatment, if resources are available.

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