Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 683 (Substitute S-1 as reported)
Senate Bill 684 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 685 (Substitute S-1 as reported)
Senate Bill 686 (Substitute S-2 as reported)
Sponsor: Senator Tom George (S.B. 683)
Senator Bruce Patterson (S.B. 684)
Senator Virg Bernero (S.B. 685)
Senator Gilda Z. Jacobs (S.B. 686)
Committee: Health Policy

CONTENT

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

-- Establish criteria for "assisted outpatient treatment" (AOT) pursuant to 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 were 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.

Senate Bill 683 (S-1) 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 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 36 months or in the individual's committing one or more acts, attempts, or threats of serious violent behavior toward himself or herself or others within the last 48 months. An individual meeting these criteria would be eligible to receive assisted outpatient treatment.

Senate Bill 684 (S-2) would add Section 433 to 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% of its State share of the operating budget for fiscal years 2004-05, 2005-06, 2006-07, and 2007-08 (as allowed for previous fiscal years). A CMHSP that provided AOT services during a fiscal year could carry forward up to 7% of the operating margin.

Senate Bill 685 (S-1) 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.

Senate Bill 686 (S-2) would define "assisted outpatient treatment" as the categories of outpatient services ordered by the court under Section 433 or 469a (pursuant to Senate Bill 684). The term would include intensive case management services or assertive community treatment team 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 or the need for hospitalization.

The bill would require the Department of Community Health (DCH) to submit to the Legislature 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.

MCL 330.1401 (S.B. 683)
330.1226 et al. (S.B. 684)
330.1472a et al. (S.B. 685)
330. 100a et al. (S.B. 686)

Legislative Analyst: Julie Koval

FISCAL IMPACT

Requiring CMHSPs to provide services under a court order via assisted outpatient treatment would not produce a direct cost to the State. A person under court order either is or is not eligible for Medicaid.

If the person is Medicaid eligible, the CMHSP receives payments under a capitation model, not a fee-for-service model, so the costs of the treatment are absorbed by the CMHSP.

If the person is not Medicaid eligible, the CMHSP must pay for the services by using its non-Medicaid State funding. This would result in less funding being available for services to other non-Medicaid CMHSP clients; as non-Medicaid services are not an entitlement, however, there would be no increase in cost, just a shift in who receives services and who is put on a waiting list.

There would be a cost increase for pharmaceuticals for Medicaid-eligible individuals, as pharmaceutical costs are paid by the State, not by the CMHSP. There are many new psychotropic medications that are quite helpful in treatment, but are also expensive. Without experience-based data on the number of individuals ordered to receive assisted outpatient treatment, it is difficult to estimate the cost, although it would be relatively small compared with the annual adjustments to the Pharmaceutical Services line item in the DCH budget. For instance, if 100 individuals were ordered to receive assisted community treatment and their medications cost an average of $10,000 per year, the net cost increase would be $1.0 million Gross and $441,100 GF/GP.

The bills also would potentially increase local court costs by requiring court investigations on petitions of AOT criteria and regular reviews of court orders for alcohol or substance abuse testing.

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Fiscal Analyst: Steve Angelotti
Bethany Wicksall