F I S C A L I M P A C T R E P O R T

SPONSOR Papen/Cadena/ Hochman-Vigil **ORIGINAL DATE** 2/4/2020 **LAST UPDATED** 2/8/2020 2/10/2020 **HB**

SHORT TITLE Behavioral Health Community Integration Act **SB** 182/aSFC/ec

ANALYST Esquibel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		
$0.0	$0.0	$0.0	Recurring	Behavioral Health Community Integration (BHCI) Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HSD/BHSD Program Services	$1,000.0	$7,000.0	$7,000.0	$15,000.0	Recurring	Behavioral Health Community Integration (BHCI) Fund
HSD/BHSD ASO costs	$50.0	$15.0	$15.0	$65.0	Recurring	Behavioral Health Community Integration (BHCI) Fund
HSD/BHSD Staff costs	$420.0	$420.0	$420.0	$1,260.0	Recurring	General Fund
CYFD Staff, Program Services	Substantial	Substantial	Substantial	Substantial	Recurring	General Fund, BHCI Fund
Total	$1,470.0	$7,435.0	$7,435.0	$16,325.0	Recurring	BHCI Fund, General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Senate Bill 182 relates to Senate Bill 128, Assisted Outpatient Treatment Act Changes, and Senate Bill 54, Behavioral Health Community Integration Act.

SOURCES OF INFORMATION

LFC Files

Responses Received From
Indian Affairs Department (IAD)
Children, Youth and Families Department (CYFD)
Corrections Department (CD)
Human Services Department (HSD)
University of New Mexico Health Sciences Center (UNMHSC)

SUMMARY

Synopsis of SFC Amendments

The Senate Finance Committee (SFC) amendments to Senate Bill 182 add tribal resources to the list of resources enabling persons to function in a comprehensive community-based mental health system.

The SFC amendments delete the definition of value-added service.

The SFC amendments also remove the bill's funding mechanism, which included requiring Medicaid managed-care organizations (MCOs) and Medicaid fee-for-service contractors to pay into the bill's proposed "behavioral health community integration fund" 3 percent of the annual amount they spend for value-added behavioral health services, which was projected to generate approximately $25 thousand annually.

Synopsis of Original Bill

Senate Bill 182 (SB182) would create the Behavioral Health Community Integration (BHCI) Act. The target population of the BHCI Act is adults with serious mental illness (SMI) and youth between ages 16 and 22 with serious emotional disturbance (SED), and includes adults or youth who live in rural areas or who are homeless.

SB182 would require the Behavioral Health Services Division (BHSD) of the Human Services Department (HSD) to design and implement a comprehensive community-based mental health system in communities throughout the state that provides support services to achieve one or more of the following:

1) To prevent or reduce the likelihood of relapse following discharge from inpatient care or recidivism following release from detention or incarceration;
2) To correct, reduce or ameliorate the physical, mental, cognitive or developmental effects of serious mental illness (SMI) or serious emotional disturbance (SED);
3) To reduce or ameliorate the pain or suffering caused by SMI or SED;
4) To assist the person to achieve or maintain maximum functional capacity in performing the activities of daily living; or
5) To assist the person with life skills needed to live independently in the community.

HSD/BHSD would be required to provide periodic reports to the Legislative Health and Human Services Committee.

SB182 would create the Behavioral Health Community Integration Fund as a non-reverting fund in the state treasury. HSD/BHSD would administer the fund to contract for services, with the following conditions:

1) Money in the fund shall be expended only for the purposes specified in the BHCI Act;
2) Money in the fund shall be used to provide, arrange for or assist with targeted case management, transitional and long-term housing for the target population, and psychosocial rehabilitation and support services for the target population; and
3) Money in the fund shall not be used to pay for goods or services covered by Medicaid or to match federal funding for Medicaid.

SB182 outlines contract requirements as follows:

1) Contracts awarded from the BHCI Fund would be awarded for a period of at least four years to contractors who demonstrate the ability to achieve outcomes specified by BHSD, with preference to proposals for communities with few or no behavioral health providers or services. Awards shall allow innovative, flexible and creative uses of local resources other than traditional providers of behavioral health services;
2) BHSD may require contractors to demonstrate in-kind or other support; and
3) HSD shall enter into a contract for procurement after evaluating competitive proposals and shall not design requests for proposals to provide for only sole source contracts. HSD's procurement process must be in accordance with the Procurement Code, provided that Section 13-1-998.1 NMSA 1978 (Hospital and Health Care Exemption) shall not apply to procurements pursuant to the BHCI Act.

SB182 would require that HSD promulgate standards and performance measures for contracts awarded pursuant to the BHCI Act. Minimum standards are described in Section 6 of SB182 and include:

1) identification and tracking of each person served;
2) acceptance of referrals from all sources for persons in the target population;
3) an assessment performed, and service plan developed within certain parameters;
4) assignment of a community support worker responsible for assisting in the assessment of the person and development of the service plan;
5) initiation of services within one calendar day of the assessment for persons with urgent needs and within five calendar days for persons with non-urgent needs;
6) immediate access to crisis stabilization services, with 24-hour telephone response and next calendar day appointment; and
7) continuing support for persons served.

The bill specifies standards developed by HSD must not be so stringent that only traditional providers of behavioral health services can meet them. Contractors shall be required to report outcomes as determined by the department.

SB182 would require HSD to require a Medicaid managed care organization (MCO) or Medicaid fee-for-service (FFS) contractor to pay 3 percent of the annual amount spent by the organization or contractor for value-added behavioral health services be deposited into the behavioral health community integrating fund in quarterly installments.

SB182 bill contains an emergency clause and would become effective immediately upon signature by the Governor.

FISCAL IMPLICATIONS

Senate Bill 182/aSFC does not include an appropriation or dedicated funding mechanism. A companion bill, Senate Bill 54, includes an appropriation of $7 million to fund the "Behavioral Health Community Integration Act," so this amount is included as the estimated operating budget impact to implement the Act.

The Human Services Department Behavioral Health Services Division indicates fiscal sustainability of the array of systemic services outlined in the bill would be dependent on the 3 percent fee assessed on MCOs' value-added services initially contained in the original bill or some other funding mechanism. The current bill as amended by the Senate Finance Committee eliminated this revenue source.

The bill would create the behavioral health community integration fund consisting of appropriations, value-added services payments, gifts, grants, donations and any other money deposited in the fund. Money in the fund would only be expended for the purposes of the Behavioral Health Community Integration Act, as limited by the appropriation, and used for targeted case management, transitional and long-term housing, and psychosocial rehabilitation and support services. Money in the fund could not be used for Medicaid-eligible services.

SB182 would create a new nonreverting fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the Legislature to establish spending priorities.

If enacted, HSD estimates the operating cost of expanding BHSD's administrative service organization (ASO) reporting capability would be $50 thousand initially for both FY21 and FY22, followed by $15 thousand annually for maintenance, to be covered by BHCI Funds.

Section 4(C) of the bill would prohibit HSD from using money from the behavioral health community integration fund as state match to generate additional federal matching funds for Medicaid beneficiaries. Certain support services provided for in the bill as well as required administrative services could possibly be funded with Medicaid state and federal revenue, but as currently written, the bill explicitly prohibits using any money in the behavioral health community integration fund to leverage federal Medicaid funding.

The Children Youth and Families Department indicates the expansion of services and supports for the transition-age population of youth ages 16 to 22 years would have a fiscal implication for CYFD, although it did not provide an amount. CYFD's Behavioral Health Services Division, through the CYFD Fee Schedule and Open Fund pool, currently provides funding for parity services to non-Medicaid eligible children, non-Medicaid eligible specialized services required by state statute, and children's behavioral health services and supports delivered by non-Medicaid providers. These funds are managed through the Behavioral Health Collaborative's administrative services organization, currently the Falling Colors Corporation, which manages the state's non-Medicaid behavioral health funds and services including state general fund revenue, federal funds, and non-profit grant dollars.

The Human Services Department Behavioral Health Services Division (BHSD) reports one FTE would be needed to administer every $1.2 million in additional program funding at an

approximate cost of $70 thousand from the general fund. If implementation of the Act is project to cost approximately $7 million, then BHSD would need at least 6 FTE at a total cost of

SIGNIFICANT ISSUES

CYFD notes the provisions contained in SB182 align with CYFD efforts to deinstitutionalization children and youth through the use of trauma-responsive social and emotional therapies and supports.

PERFORMANCE IMPLICATIONS

UNMHSC indicates **i**n many areas throughout New Mexico there are little to no behavioral health resources and the development of a more comprehensive system of care for behavioral health could facilitate discharges from higher levels of care for patients to return back to areas of the state where there are currently limited resources.

ADMINISTRATIVE IMPLICATIONS

BHSD and CYFD should coordinate to ensure complementary, comprehensive services for the age 16-22 target population.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 182 as amended by SFC (SB182/aSFC) relates to Senate Bill 54 (SB54), Behavioral Health Community Integration Act. SB54 differs from SB182 in that SB54 contains an appropriation of $7 million from the general fund to the behavioral health community integration fund, SB54 does not require contractors be certified by Medicaid, and SB54 does not require the Behavioral Health Services Division of the Human Services Department to provide periodic reports to the Legislative Health and Human Services Committee.

TECHNICAL ISSUES

The Senate Finance Committee amendments eliminate value-added services payments; however, Section 4 of the bill creates the "behavioral health community integration fund" and still includes "value-added services payments" as revenue that could be deposited into the fund.

HSD notes it would not be able to comply with the emergency clause immediate enactment of the bill because HSD will have to promulgate regulations and amend the MCO contracts which would take a few months.

The Children, Youth and Families Department (CYFD) suggests an amendment ensuring coverage up through 25 years of age. This amendment would address the current gap with existing services for youth aged 16 to 21.

CYFD indicates the standards for referral times for youth aging out of foster care should be developed with input from the CYFD Protective Services Division, particularly given CYFD's program development and expansion related to extended foster care.

CYFD notes many of the services identified in SB182 (i.e., targeted case management, transitional and long-term housing, psychosocial rehabilitation and support services) align with

or duplicate services already overseen by CYFD. To ensure appropriate identification of service populations and avoid duplication of services or expenditures, CYFD should be added in the bill's provisions to include the establishment of program and services definitions, selection of provider vendors, oversight, and other such activities to ensure alignment with CYFD's commitment to the provision of quality behavioral health services and supports that are trauma informed, evidence-based, culturally competent, and youth and family driven.

The Corrections Department (NMCD) notes that Section 6A, subsection 3(b) requires an assessment shall be performed and support services plan developed within no more than 48 hours prior to an individual's discharge from inpatient care or release from detention or incarceration. NMCD indicates release plans are generated six months prior to release including any probation and parole plans, along with the planning process of proper referrals to NMCD's community service providers. Administratively, NMCD would need a minimum of 90 days post-assessment to rearrange or change referrals based on that assessment. As the release plans are generated, so are community service referrals, and if something were to change based on the assessment, 48 hours is not sufficient time for NMCD to change the release plan for that individual before they are released to the community.

OTHER SUBSTANTIVE ISSUES

The Indian Affairs Department (IAD) reports the participation of the state's 23 Tribes, Nations, and Pueblos in this Act is essential in improving the state's behavioral health outcomes.

New Mexico's Tribes, Nations, and Pueblos continue to suffer from alcohol and substance abuse, mental health disorders, suicide, violence, and behavior-related chronic diseases at significantly higher rates than the general public. There were 51 suicides in New Mexico children in 2011-2013, and the suicide rate was highest among American Indian children and among males (*New Mexico Child Fatality Review, 2014)*. In 2017, Whites and American Indians had the highest rates of suicide 29.7 and 21.1 deaths per 100,000 persons, respectively. For American Indians, the rate was highest among those 15-24 years of age (*NM Department of Health Fact Sheet, October 2018*). The state's Tribes, Nations, and Pueblos continue to work diligently to combat these behavioral health issues.

RAE/sb/rl/al