



Ohio Legislative Service Commission

Bill Analysis

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H.B. 369

130th General Assembly
(As Introduced)

Reps. Sprague, Antonio, Boose, Buchy, Butler, Letson, Patterson, Scherer, Sears, Sheehy, Smith

BILL SUMMARY

- Requires, beginning one year after the bill's effective date, that each board of alcohol, drug addiction, and mental health services (ADAMHS board) establish, to the extent resources are available, a full spectrum of care, rather than a continuum of care, that provides for prevention, treatment, support, and rehabilitation services and opportunities.
- Requires, beginning one year after the bill's effective date, that the full spectrum of care include all levels of treatment services for opioid addiction, including ambulatory detoxification, individual and group therapy, medication-assisted treatment, peer mentoring, residential treatment services, and 12-step approaches.
- Requires the Ohio Department of Mental Health and Addiction Services (ODMHAS) Director to withhold all funds to be allocated to an ADAMHS board if the board fails to provide for its full spectrum of care to include the bill's required treatment services for opioid addiction.
- Requires the Medicaid program to cover ambulatory detoxification, case management, intensive outpatient treatment for drug addiction, and medication-assisted treatment for Medicaid recipients with opioid addictions beginning one year after the bill's effective date.
- Establishes, beginning one year after the bill's effective date, health care coverage requirements regarding opioid addiction services for individual and group health insuring corporation contracts providing basic health care services, individual and group policies of sickness and accident insurance, public employee benefit plans, and multiple employer welfare arrangements operating group self-insurance programs.

- Adds Hocking County to the counties participating in an ODMHAS pilot program involving certified drug court programs providing addiction treatment to criminal offenders dependent on opioids, alcohol, or both.
- Provides for the Ohio Supreme Court, in fiscal years 2014 and 2015, to help defray a portion of courts of common pleas', municipal courts', and county courts' payroll costs associated with the employment of up to two drug court case managers.
- Requires each ADAMHS board to provide recovery housing.
- Provides for ODMHAS to pay a state share of the capital costs for recovery housing projects and the first two years of operating expenses for certain recovery housing projects.

CONTENT AND OPERATION

Opioid addiction treatment duties of local behavioral health boards

Full spectrum of care

The bill establishes requirements regarding services available from boards of alcohol, drug addiction, and mental health services (ADAMHS boards). The requirements take effect one year after the bill's effective date.

Current law requires each ADAMHS board to establish, to the extent resources are available, a continuum of care that provides for prevention, treatment, support, and rehabilitation services and opportunities. The Ohio Department of Mental Health and Addiction Services (ODMHAS) is required to assist any county with the provision of ODMHAS-approved services within the continuum of care. To the extent it has available resources, ODMHAS must support the continuum of care on an ADAMHS board district or multi-district basis. The bill replaces the term "continuum of care" with "full spectrum of care."¹

Current law provides that the categories in an ADAMHS board's continuum of care may include the following services: inpatient, residential, outpatient treatment, intensive and other supports, recovery support, and prevention and wellness management. In addition to maintaining these as optional categories in an ADAMHS board's full spectrum of care, the bill requires that the full spectrum of care include all levels of treatment services for opioid addiction, including ambulatory detoxification, individual and group therapy, medication-assisted treatment, peer mentoring,

¹ R.C. 340.03, 340.09, 5119.21, 5119.22, 5119.23, and 5119.25; Section 4.

residential treatment services, and 12-step approaches. The treatment services must be made available in the service district of each ADAMHS board, except that a treatment consisting of residential treatment services for opioid addiction is not required to be available in a district if the ADAMHS board has a contract with one or more providers of residential treatment services for opioid addiction located in the districts of other ADAMHS boards. The treatment services must be made available in a manner that ensures that recipients are able to access the services they need for opioid addiction in an integrated manner and without delay when changing or obtaining additional treatment services for opioid addiction. A treatment service for opioid addiction is not to be excluded from the full spectrum of care on the basis that the treatment service previously failed.²

Current law requires each ADAMHS board to submit to ODMHAS a report of receipts and expenditures for all federal, state, and local money the board expects to receive. The bill requires that the report identify funds the ADAMHS board has available for the treatment services for opioid addiction that the bill requires be included in its full spectrum of care.³

Current law permits the ODMHAS Director, in whole or in part, to withhold funds otherwise to be allocated to an ADAMHS board if the board's use of state and federal funds fails to comply with its ODMHAS-approved budget. The bill requires the Director to withhold all funds to be allocated to an ADAMHS board if the board fails to provide for its full spectrum of care to include the bill's required treatment services for opioid addiction. The Director continues to be permitted to withhold, in whole or in part, allocated funds to an ADAMHS board if the board fails to comply with its approved budget for another reason.⁴

Medicaid coverage of opioid addiction services

The bill requires the Medicaid program to cover the following services for Medicaid recipients with opioid addictions beginning one year after the bill's effective date:

- (1) Ambulatory detoxification;
- (2) Case management;

² R.C. 340.09 (primary), 340.08(B), and 5119.21; Section 4.

³ R.C. 340.08(A)(1) and 340.15.

⁴ R.C. 340.08(A)(4), 5119.22(G)(1), and 5119.25; Section 4.

- (3) Intensive outpatient treatment for drug addiction;
- (4) Medication-assisted treatment.

The Medicaid program is prohibited by the bill from restricting coverage of any of these services based on the services' prior successes or failures.⁵

Health care coverage of opioid addiction services

The bill establishes health care coverage requirements regarding opioid addiction services. The requirements apply to individual and group health insuring corporation contracts providing basic health care services, and individual and group policies of sickness and accident insurance, that are delivered, issued for delivery, or renewed in Ohio on or after one year after the bill's effective date. The bill also establishes such requirements beginning one year after the bill's effective date for each public employee benefit plan that is established or modified in Ohio and each multiple employer welfare arrangement operating a group self-insurance program.

The contracts, policies, plans, and programs must cover the following services for covered individuals with opioid addictions:

- (1) Ambulatory detoxification;
- (2) Case management;
- (3) Intensive outpatient treatment for drug addiction;
- (4) Medication-assisted treatment;
- (5) Residential treatment services.

The bill provides that coverage of such a service cannot be restricted based on the service's prior successes or failures.⁶

Review of mandated benefits legislation

The bill's requirements for health care coverage of opioid addiction services may be considered a coverage mandate. The bill exempts its coverage requirements from review by the Superintendent of Insurance. Under current law, legislation mandating health benefits cannot apply to any health benefits arrangement until the

⁵ R.C. 5164.09; Section 4.

⁶ R.C. 1739.05, 1751.621, and 3923.521; Sections 3 and 4.



Superintendent holds a public hearing and determines that the provision can be applied fully and equally in all respects to (1) employee benefit plans subject to the Employee Retirement Income Security Act of 1974 (ERISA) and (2) employee benefit plans established or modified by the state or its political subdivisions.⁷

ERISA is a comprehensive federal statute governing the administration of employee benefit plans. ERISA generally precludes state regulation of benefits offered by private employers that self-insure their benefit programs. Larger employers frequently choose to establish their own health insurance plans for their employees in lieu of purchasing coverage from an insurer or health insuring corporation.

Hocking County added to addiction treatment pilot program

Am. Sub. H.B. 59 of the 130th General Assembly requires ODMHAS to conduct a pilot program in the courts of certain counties with certified drug court programs to provide addiction treatment to criminal offenders selected to participate in the program who are dependent on opioids, alcohol, or both. A certified drug court program is a session of a common pleas court, municipal court, or county court (or a division of one of those courts) that holds certification from the Ohio Supreme Court as a specialized docket program for drugs.

Under current law, the pilot program must be conducted in the courts of Crawford, Franklin, Hardin, Mercer, and Scioto counties that are conducting certified drug court programs. If in any of these counties there is no drug court program, ODMHAS must conduct the pilot program in a court that is conducting a certified drug court program in another county. In addition, ODMHAS may conduct the pilot program in any other court that is conducting a drug court program.

The bill requires that ODMHAS also conduct the pilot program in Hocking County.⁸

Drug court case manager compensation

The bill appropriates funds to the Ohio Supreme Court for fiscal years 2014 and 2015 to be used to defray a portion of the annual payroll costs associated with the employment of up to two drug court case managers by a court of common pleas, municipal court, or county court.⁹ Payroll costs are to include annual compensation and

⁷ R.C. 3901.71, not in the bill.

⁸ Sections 5 and 6.

⁹ Sections 7 and 9.



fringe benefits. To be eligible for the funds, a court must have a specialized drug court docket certified by the Ohio Supreme Court.

The bill establishes formulas to be used in determining how much a court may receive in state funding to help defray the annual payroll costs of a drug court case manager. One formula applies to courts of common pleas and the other formula applies to municipal courts and county courts. Both formulas use a payroll cost cap which is the lesser of a drug court case manager's actual annual compensation and fringe benefits or \$78,000.

Under the formula for courts of common pleas, the state funding is to equal the lesser of (a) the payroll cost cap minus the local share or (b) \$72,230. The local share is to equal 18 cents per capita for the population of the county in which the court is located, according to the latest federal census. However, the local share cannot be less than \$3,500 or more than \$14,000.

Under the formula for municipal courts and county courts, the state funding is to equal the lesser of 54% of the payroll cost cap or \$42,214.

The bill requires the Ohio Supreme Court to disburse the state funding in monthly installments.

Buckeye Recovery Housing

The bill requires each ADAMHS board to provide recovery housing. Although the requirement is placed in an uncodified section, it is not clearly limited to a certain period of time. The bill defines "recovery housing" as a facility for people recovering from addiction that is characterized by an alcohol and drug free living environment with peer support and other addiction recovery aids, including links to addiction treatment services. Recovery housing must be supervised with administrative oversight, quality standards, house rules, and policies and procedures for people recovering from addiction. The owner must be a local government entity, nonprofit addiction treatment provider certified by ODMHAS, peer-run recovery nonprofit organization, or other local nonprofit organization as appropriate to meet the local community's needs. The residents must be actively receiving recovery services or addiction treatment for opioid abuse, or both. The amount of time a resident is to stay is to be determined by the resident's needs, progress, and willingness to abide by the recovery housing guidelines in conjunction with the owner and, if appropriate, in consultation and integration with an addiction treatment services provider. A resident's length of stay is not to be limited to an arbitrary or fixed duration.

ODMHAS is appropriated funds to be used to pay the state share of the capital costs for recovery housing projects and the first two years of operating expenses for



certain recovery housing projects.¹⁰ The appropriation is made for fiscal year 2014 but the bill reappropriates for fiscal year 2015 the unexpended, unencumbered portion of the appropriation remaining at the end of fiscal year 2014 to ODMHAS for the same purpose.

The bill requires the ODMHAS Director to prioritize funding for projects in counties that currently have no recovery housing options. The bill also specifies the state and ADAMHS board shares of recovery housing capital costs and operating expenses.

The shares for capital costs are to vary for different groups of counties. The following applies to Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Stark, and Summit counties:

(1) If recovery housing already exists in the county, the state and ADAMHS board shares are both 50% of the capital costs of additional recovery housing projects.

(2) If no recovery housing exists in the county, the state is to pay 90% of the capital costs and the ADAMHS board is to pay the remainder, unless the ADAMHS board cannot afford its 10% share, in which case the state is to pay 100%.

For all other counties, the state is to pay 90% of the recovery housing capital costs and the ADAMHS board is to pay the remainder, unless the ADAMHS board cannot afford its 10% share, in which case the state is to pay 100%.

Regarding operating expenses, an ADAMHS board is to pay the full cost unless the state paid 100% of the capital costs. In that case, the state must pay 90% of the operating expenses for the first two years.

HISTORY

ACTION	DATE
Introduced	12-03-13

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¹⁰ Sections 8 and 9.

