



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** Sub. H.B. 369 of the 130th G.A.

**Date:** May 5, 2014

**Status:** As Passed by the House

**Sponsor:** Rep. Sprague

**Local Impact Statement Procedure Required:** Yes

**Contents:** To establish requirements for board services for opioid and co-occurring drug addiction, to require rules regarding intake and resumption of service procedures for community alcohol and drug addiction services providers, to modify the uses of the Department of Mental Health and Addiction Services' appropriation item for community behavioral health, to defray payroll costs associated with certain courts' employment of specialty docket staff, and to require certain urban boards of alcohol, drug addiction, and mental health services to prioritize the use of state subsidies to temporarily assist certain returning offenders

### State Fiscal Highlights

- The bill requires on July 1, 2014, or as soon as possible thereafter, that the Department of Medicaid calculate the variance between the actual and projected enrollment of newly eligible individuals under the Medicaid expansion in fiscal year (FY) 2014. If the actual enrollment is more than 10% less than the projected enrollment, the bill permits the Director of the Ohio Department of Mental Health and Addiction Services (OMHAS) to allocate up to \$24.85 million of GRF line item 335507, Community Behavioral Health, to alcohol, drug addiction, and mental health services boards (ADAMHS boards) to continue programs the ADAMHS boards started in FY 2014. (The bill removes the line item's current earmarks for FY 2015 of \$30.0 million for mental health services and \$17.5 million for alcohol and drug addiction services.)
- The bill requires that any amount not allocated, up to \$24.85 million, in the preceding bullet be used for the capital or leasing costs of recovery housing.
- The bill allows the newly earmarked funds to also be used to pay the first two years of operating expenses for certain recovery housing projects and requires that not more than \$500,000 of the earmark be used to enter into a three-year contract between OMHAS and a nongovernmental organization to organize a network of recovery housing in Ohio.
- The bill earmarks \$5,078,200 in FY 2015 from GRF line item 335507, Community Behavioral Health, to be used to maintain level funding of the Substance Abuse Prevention and Treatment Block Grant.

- The bill earmarks \$5.0 million in FY 2015 from GRF line item 335507, Community Behavioral Health, to expand prevention-based resources statewide.
- The bill earmarks \$3.75 million in FY 2015 from GRF line item 335507, Community Behavioral Health, to expand the Residential State Supplement Program.
- The bill replaces the requirement that the Medicaid Director transfer the savings realized from decreased nursing facility utilization from the General Revenue Fund to the Sale of Goods and Services Fund (Fund 1490) with a provision requiring the OMHAS Director and the Medicaid Director to certify to the Director of Budget and Management an agreed upon amount representing the savings realized from decreased nursing facility utilization. The bill authorizes the Director of Budget and Management, upon receipt of the certification, to increase the appropriation of GRF line item 335504, Community Innovations, up to the certified amount, and to decrease the appropriation of Department of Medicaid GRF line item 651525, Medicaid/Health Care Services, by an amount equal to the appropriation increase to line item 335504.
- The bill transfers FY 2015 appropriations of \$8,821,800 from GRF line item 335507, used by the Department of Mental Health and Drug Addiction Services, to GRF line item 501502, Specialty Docket Staff Payroll Costs, to be used by the Department of Rehabilitation and Correction (DRC) to defray a portion of the annual payroll costs associated with up to two full-time equivalent staff members employed by common pleas, municipal, and county courts with certain certified specialty dockets. Related temporary law requires DRC to use up to 1%, or \$88,218, of the FY 2015 appropriation for its administrative expenses.
- The bill, generally, enables a chemical dependency counselor or other specific, licensed professional to achieve a pathological and problem gambling endorsement on the counselor's license to enable the counselor to address gambling addiction disorders. In addition, the bill permits the Chemical Dependency Professionals Licensing Board to establish and adjust fees to be charged for issuing an initial pathological and problem gambling endorsement and renewing the endorsement. These fees may not be more than \$175. An endorsement is valid for two years. The Board would gain fee revenue for the new endorsement. There would also be an increase in administrative costs to implement the endorsement.
- The bill requires OMHAS to make a report on the community alcohol and drug addiction wait lists available on its website and lists the content the report must contain. There would likely be an increase in costs to OMHAS to create the statewide wait list report and post it on its website.

- The bill requires OMHAS to adopt rules to streamline intake paperwork, questionnaires, and processes for addiction treatment clients and providers so as to mirror the practices employed in the primary healthcare environment. The bill also requires that OMHAS adopt rules to allow alcohol and drug addiction providers to retain their clients as active patients for longer than 30 days. Furthermore, the bill requires OMHAS adopt rules governing the waiting lists that ADAMHS boards must establish and maintain. There would be a minimal increase in administrative costs to OMHAS to adopt these rules.

## **Local Fiscal Highlights**

- The bill requires each board of alcohol, drug addiction, and mental health services (ADAMHS board) to provide recovery housing. The bill also requires the ADAMHS boards to pay the local portion of the capital or leasing costs for recovery housing, unless an ADAMHS board cannot afford it, in which case the state will pay for the capital costs in most instances.
- The bill requires each ADAMHS board that receives state funds for the capital or leasing costs of recovery housing to pay at least half of those funds, through a grant process, to one or more nonprofit entities that are to use the funds for the capital costs of developing new or additional recovery housing in the county or counties that the board serves.
- The bill requires ADAMHS boards to provide for a full spectrum of care services for opiate and co-occurring drug addiction. Some services are not covered by the Medicaid Program; therefore, there could be an increase in costs to ADAMHS boards to provide these additional services. In addition, ADAMHS boards assist individuals who are not covered by Medicaid. An individual could have part of the costs of a service under the full spectrum of care services paid for by the ADAMHS board if the person cannot afford to pay for the service.
- The bill permits, if the amount of funds that an ADAMHS board has for the board's full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction is greater than the amount needed to provide the treatment services to all eligible individuals with opioid and co-occurring drug addictions who apply to the board for the treatment services, the ADAMHS board to use the excess funds to provide the treatment services included in the full spectrum of care to other individuals with alcohol or other types of drug addiction.
- The bill requires the ADAMHS boards serving Cuyahoga, Franklin, Hamilton, Montgomery, and Summit counties to prioritize the use of funds made available to the boards by the Ohio Department of Mental Health and Addiction Services (OMHAS) under Am. Sub. H.B. 59 of the 130th General Assembly to temporarily assist returning offenders who have severe mental illnesses, severe substance use disorders, or both, obtain Medicaid-covered community mental health services, Medicaid-covered community drug addiction services, or both.

- The bill makes the following changes to the indigent drivers' alcohol treatment funds. First, it clarifies the purposes for which moneys in county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds may be used. Secondly, it authorizes surplus moneys in these county and municipal funds to be used for additional purposes. Finally, it authorizes the transfer of surplus moneys in county indigent drivers interlock and alcohol monitoring funds, county juvenile indigent drivers interlock and alcohol monitoring funds, and municipal indigent drivers interlock and alcohol monitoring funds to county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds to be utilized for assessment, treatment, and assessment costs. These provisions expand a court's permissible uses of certain funds to include alcohol assessment- and treatment-related transportation costs and the sharing of certain surplus money with other courts in the county and the county mental health system.
- The bill requires that the expenses of returning a mentally ill person to the person's county of legal residence and, if the person is ordered hospitalized, probate fees and other expenses incurred on the person's behalf, be charged to the county of residence. In addition, the bill requires that a transcript of any court proceedings be sent to the probate court of the county of residence. If the person's residence cannot be established, the bill requires the matter be referred to OMHAS.
- The bill requires each ADAMHS board to maintain a community alcohol and drug addiction services wait list. In addition, the bill requires each ADAMHS board to report to OMHAS wait list information and to submit the information confidentially via electronic means. There could be an increase in administrative costs to ADAMHS boards to create the wait lists, if they do not already exist, and to collect and submit data on wait list individuals to OMHAS.
- The bill requires OMHAS to adopt rules to streamline intake paperwork, questionnaires, and processes for addiction treatment clients and providers so as to mirror the practices employed in the primary healthcare environment. The bill also requires that OMHAS adopt rules to allow alcohol and drug addiction providers to retain their clients as active patients for longer than 30 days. There could be a potential decrease in administrative costs to ADAMHS boards if the intake process is streamlined and also does not need to be repeated for clients retained as active patients.

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## Detailed Fiscal Analysis

### Medicaid expansion enrollment variance

The bill requires on July 1, 2014, or as soon as possible thereafter, that the Department of Medicaid calculate the variance between the actual and projected enrollment of newly eligible individuals under the Medicaid expansion in fiscal year (FY) 2014. The projected enrollment is the number specified in the "Fiscal Impact of the Affordable Care Act on Medicaid Enrollment and Program Cost" report produced by Mercer Health and Benefits LLC for the state of Ohio's Office of Medical Assistance on February 13, 2013. If the actual enrollment is more than 10% less than the projected enrollment, the bill permits the Director of the Ohio Department of Mental Health and Addiction Services (OMHAS) to allocate up to \$24.85 million of GRF line item 335507, Community Behavioral Health, to alcohol, drug addiction, and mental health services boards (ADAMHS boards) to continue programs the ADAMHS boards started in FY 2014. The bill also removes the line item's previous earmarks of \$30.0 million for mental health services and \$17.5 million for alcohol and drug addiction services. The previous earmarks were made in Am. Sub. H.B. 59 of the 130th General Assembly.

### Recovery housing

The bill requires each board of alcohol, drug addiction, and mental health services (ADAMHS board) to provide recovery housing. The bill defines recovery housing as a facility for people recovering from addiction and is characterized by an alcohol and drug free living environment with peer support and other addiction recovery aids, including linkages to addiction treatment services. The bill prioritizes recovery housing for persons suffering from opiate or co-occurring drug addiction, but permits an available slot to be used by other recovering alcohol and drug addicted-persons if an available slot is not needed for an individual recovering from opiate or co-occurring drug addiction. The bill also requires recovery housing be owned and operated by a community alcohol and drug addiction services provider, other local nongovernmental organization, or an ADAMHS board. An ADAMHS board may own recovery housing if the ADAMHS board owns and operates recovery housing on the effective date of this provision or the ADAMHS board determines that there is an emergency need for the board to assume the ownership and operation of the recovery housing and the ADAMHS board considers the assumption of ownership and operating of the recovery housing to be its last resort.

The bill requires that any amount not allocated, up to \$24.85 million, in the preceding section "**Medicaid expansion enrollment variance**" be used for the capital or leasing costs of recovery housing as follows:

- To provide six step-down regional crisis stabilization units, for a total of up to 90 beds, in accordance with a state allocation formula OMHAS must create.

- To fund the ADAMHS boards serving Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Stark, and Summit counties for capital or leasing costs associated with making up to 400 recovery housing beds available in those counties or additional step-down regional crisis stabilization units. These step-down regional crisis stabilization units must be funded using the state allocation formula mentioned above.
- For other ADAMHS boards, for the capital or leasing costs associated with making up to 480 recovery housing beds available in those counties.

The bill requires that the OMHAS Director prioritize the funding for projects in counties that currently have no recovery housing options. The bill provides that the funds may also be used to pay the first two years of operating expenses for certain recovery housing projects. The bill also requires that not more than \$500,000 of the \$24.85 million earmark be used to enter into a three-year contract between OMHAS and a nongovernmental organization to organize a network of recovery housing in Ohio.

Under the bill, ADAMHS boards could incur a local share cost to provide recovery housing. The bill specifies that for Cuyahoga, Franklin, Hamilton, Lucas, Mahoning, Montgomery, Stark, and Summit counties, if recovery housing already exists in the county, the state must pay 50% of capital costs of additional recovery housing projects and the ADAMHS board must pay 50%. If no recovery housing exists in the county, the state must pay 90% of the capital costs and the ADAMHS board must pay 10%, unless the ADAMHS board cannot afford the 10% share, in which case the state must pay 100%. For the remaining 80 counties, the state must pay 90% of the recovery housing capital costs and the ADAMHS board must pay 10%, unless the ADAMHS board cannot afford the 10% share, in which case the state must pay 100%.

In addition, the bill requires each ADAMHS board that receives state funds for the capital or leasing costs of recovery housing to pay at least half of those funds, through a grant process, to one or more nonprofit entities that are to use the funds for the capital costs of developing new or additional recovery housing in the county or counties that the board serves. A nonprofit entity that receives such a grant must develop the new or additional recovery housing by rehabilitating existing buildings, using materials from existing buildings that no longer need the materials, or both and use, to the greatest extent possible, specified individuals in developing the new or additional recovery housing.

### **Additional behavioral health earmarks**

The bill earmarks \$5,078,200 in FY 2015 from GRF line item 335507, Community Behavioral Health, to be used to maintain level funding of the Substance Abuse Prevention and Treatment Block Grant. In addition, the bill earmarks \$5.0 million in FY 2015 from GRF line item 335507 to expand prevention-based resources statewide and \$3.75 million in FY 2015 to expand the Residential State Supplement Program.

## **Department of Medicaid transfer**

The bill removes the requirement that the Medicaid Director transfer the savings realized from decreased nursing facility utilization from the General Revenue Fund to the Sale of Goods and Services Fund (Fund 1490) as required by Am. Sub. H.B. 59 of the 130th General Assembly. In addition, the bill removes language appropriating the transferred cash. The bill replaces this requirement with a provision requiring the OMHAS Director and the Medicaid Director to certify to the Director of Budget and Management an agreed upon amount representing the savings realized from decreased nursing facility utilization. The bill authorizes the Director of Budget and Management, upon receipt of the certification, to increase the appropriation of GRF line item 335504, Community Innovations, up to the certified amount, and to decrease the appropriation of Department of Medicaid GRF line item 651525, Medicaid/Health Care Services, by an amount equal to the appropriation increase to line item 335504.

## **Full spectrum of care services for opiate and co-occurring drug addiction**

The bill requires each ADAMHS board to provide a "full spectrum of care" and requires that the full spectrum of care include all levels of treatment services for opiate and co-occurring drug addiction. These services would include, but not be limited to, ambulatory and sub-acute detoxification, nonintensive and intensive outpatient services, medication-assisted treatment, peer mentoring, residential treatment services, recovery housing, and twelve-step approaches. According to the Ohio Department of Medicaid and the Ohio Association of County Behavioral Health Authorities, peer mentoring, the room and board portions of residential treatment services, and twelve-step programs are not covered by the Medicaid Program. As a result, ADAMHS boards could incur an increase in costs to provide these additional services to Medicaid recipients. In addition, ADAMHS boards assist individuals who are not covered by Medicaid. An individual could have part of the costs of a service under the full spectrum of care services paid for by the ADAMHS board if the person cannot pay for the service.

The bill also requires the Director of OMHAS to withhold all funds to an ADAMHS board if the board fails to make the full spectrum of care for all levels of treatment services for opiate and co-occurring drug addiction available in the board's district. Under the bill, providers would be paid directly by OMHAS instead of their local board for services rendered. In addition, the bill increases the amount of time from 10 to 30 days after a notice of noncompliance that an ADAMHS board has to present its position that it is in compliance or to submit to the OMHAS Director evidence of corrective action the board took to achieve compliance. The bill also increases the amount of time from 10 to 30 days after receipt of the ADAMHS board response for the OMHAS Director to hold a hearing to determine if there are continuing violations and that either assistance is rejected or the ADAMHS board is unable, or has failed, to achieve compliance. The bill also requires, rather than permits, OMHAS to adopt rules

regarding withholding funds from local alcohol, drug addiction, and mental health services boards.

There could be an increase in administrative costs to OMHAS to pay providers if an ADAMHS board fails to provide the full spectrum of care and to adopt rules. There could be a reduction in administrative costs to an ADAMHS board subject to noncompliance, as the ADAMHS board will have more time to achieve compliance and/or submit a plan of corrective action.

The bill permits, if the amount of funds that an ADAMHS board has for the board's full spectrum of care for all levels of treatment services for opioid and co-occurring drug addiction is greater than the amount needed to provide the treatment services to all eligible individuals with opioid and co-occurring drug addictions who apply to the board for the treatment services, the ADAMHS board to use the excess funds to provide the treatment services included in the full spectrum of care to other individuals with alcohol or other types of drug addiction.

These provisions are effective two years after the bill's effective date.

### **Specialized docket staff members**

The bill transfers FY 2015 GRF appropriations of \$8,821,800 from line item 335507, Community Behavioral Health, used by the Department of Mental Health and Drug Addiction Services, to line item 501502, Specialty Docket Staff Payroll Costs. The appropriation is to be used by the Department of Rehabilitation and Correction (DRC) to defray a portion of the annual payroll costs associated with up to two full-time equivalent staff members employed by common pleas, municipal, and county courts with drug-related specialty dockets certified by the Supreme Court of Ohio. Related temporary law requires DRC to use up to 1%, or \$88,218, of the FY 2015 appropriation for its administrative expenses.

As of mid-February 2014, there were five fully certified drug courts in Ohio, and another 82 courts that had applied to the Supreme Court of Ohio for specialty docket certification that are likely to meet the bill's funding eligibility requirements.<sup>1</sup> Based on the formulas in the bill, LSC fiscal staff calculates the associated total statewide annual payroll cost at \$13,572,000 in FY 2015, with the state covering \$8,821,800 and the courts responsible for the remainder, or \$4,750,200.

### **Indigent drivers' alcohol treatment funds**

The bill makes the following changes to the indigent drivers' alcohol treatment funds. First, it clarifies the purposes for which moneys in county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds may be used. Secondly, it

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<sup>1</sup> The five courts are: (1) the Ashtabula County Common Pleas Drug Court, (2) the Delaware County Common Pleas Drug Court, (3) the Franklin County Family Drug Court, (4) the Licking County Common Pleas Drug Court, and (5) the Wayne County Common Pleas Drug Court.

authorizes surplus moneys in these county and municipal funds to be used for additional purposes, including: (a) the transfer of funds to another court in the same county to be utilized for assessment, treatment, and transportation costs, and (b) the transfer of funds to the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services that serves the alcohol, drug addiction, and mental health service district in which that court is located to be utilized for assessment, treatment, and assessment costs. Finally, it authorizes the transfer of surplus moneys in county indigent drivers interlock and alcohol monitoring funds, county juvenile indigent drivers interlock and alcohol monitoring funds, and municipal indigent drivers interlock and alcohol monitoring funds to county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds to be utilized for assessment, treatment, and assessment costs. These provisions expand a court's permissible uses of certain funds to include alcohol assessment- and treatment-related transportation costs and the sharing of certain surplus money with other courts in the county and the county mental health system.

### **Community mental health and drug addiction services for returning offenders**

The bill requires the ADAMHS boards serving Cuyahoga, Franklin, Hamilton, Montgomery, and Summit counties to prioritize the use of funds made available to the boards by OMHAS under Am. Sub. H.B. 59 of the 130th General Assembly to temporarily assist returning offenders who have severe mental illnesses, severe substance use disorders, or both, obtain Medicaid-covered community mental health services, Medicaid-covered community drug addiction services, or both.

### **Pathological and problem gambling endorsement**

The bill, generally, enables a chemical dependency counselor or other specific, licensed professional to achieve a pathological and problem gambling endorsement on the counselor's license to enable the counselor to address gambling addiction disorders. In addition, the bill permits the Chemical Dependency Professionals Board to establish and adjust fees to be charged for issuing an initial pathological and problem gambling endorsement and renewing the endorsement. These fees may not be more than \$175. An endorsement is valid for two years. The Board would gain fee revenue for the new endorsement. There would also be an increase in administrative costs to implement the endorsement.

### **Charge back to county of residence for a mentally ill person's expenses**

The bill requires that the expenses of returning a mentally ill person to the person's county of legal residence and, if the person is ordered hospitalized, probate fees and other expenses incurred on the person's behalf, be charged to the county of residence. In addition, the bill requires that a transcript of any court proceedings be sent to the probate court of the county of residence. If the person's residence cannot be established, the bill requires the matter be referred to OMHAS.

## **Community wait list**

The bill requires each ADAMHS board to maintain a community alcohol and drug addiction services wait list and notify an individual on the waiting list when the provider to which the board referred the individual has a slot available. In addition, the bill requires each ADAMHS board to report to OMHAS wait list information and to submit the information confidentially via electronic means. The bill also requires OMHAS to make a report on the community alcohol and drug addiction wait lists available on its website and lists the content the report must contain. There could be an increase in administrative costs to ADAMHS boards to create the wait lists, if they do not already exist, and to collect and submit data on wait list individuals to OMHAS. There would likely be an increase in costs to OMHAS to create the statewide wait list report and post it on its website.

## **Adoption of rules**

The bill requires OMHAS to adopt rules to streamline intake paperwork, questionnaires, and processes for addiction treatment clients and providers so as to mirror the practices employed in the primary healthcare environment. The bill also requires that OMHAS adopt rules to allow alcohol and drug addiction providers to retain their clients as active patients for longer than 30 days. Furthermore, the bill requires OMHAS adopt rules governing the waiting lists that ADAMHS boards must establish and maintain. There would be a minimal increase in administrative costs to OMHAS to adopt these rules. There could be a potential decrease in administrative costs to ADAMHS boards if the intake process is streamlined and also does not need to be repeated for clients retained as active patients.

## **Start Talking! Initiative**

The bill requires the OMHAS Director to designate an employee who is a certified prevention specialist by the Chemical Dependency Professionals Board to serve as coordinator for the Start Talking! Initiative. This provision should have no fiscal effect.