

Senate File 2252 - Introduced

SENATE FILE 2252

BY EDLER

A BILL FOR

1 An Act relating to mental health and disability services and
2 funding.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135G.6, Code 2018, is amended by striking
2 the section and inserting in lieu thereof the following:

3 **135G.6 Inspection — conditions for issuance.**

4 The department shall issue a license to an applicant under
5 this chapter if the department has ascertained that the
6 applicant's facilities and staff are adequate to provide the
7 care and services required of a subacute care facility.

8 Sec. 2. Section 331.391, subsection 4, Code 2018, is amended
9 by striking the subsection and inserting in lieu thereof the
10 following:

11 4. For the fiscal years beginning on or after July 1,
12 2018, if a region is meeting the financial obligations for
13 implementation of its regional service system management plan
14 for a fiscal year and residual funding is anticipated, the
15 regional administrator shall reserve an adequate amount for
16 cash flow of expenditure obligations in the next fiscal year.
17 The cash flow amount shall not exceed thirty percent of the
18 gross expenditures budgeted for the combined account or for all
19 regional accounts for the fiscal year in progress. Residual
20 funding remaining after the cash flow amount is reserved shall
21 be used to expand the region's core services under section
22 331.397, subsections 4 and 5, and then to make additional
23 core service domains available in the region as enumerated in
24 section 331.397, subsection 7.

25 Sec. 3. Section 331.393, subsection 3, Code 2018, is amended
26 to read as follows:

27 3. a. Each region shall submit an annual report to the
28 department on or before December 1. The annual report shall
29 provide information on the actual numbers of persons served,
30 moneys expended, and outcomes achieved.

31 b. Each region shall submit a quarterly report to the
32 department. Each quarterly report shall provide information
33 on the accessibility of intensive mental health services
34 described in section 331.397, subsection 5, and the progress
35 the region has made in meeting the region's milestones for

1 compliance with such service requirements, using forms and
2 procedures established by the department. If a region fails
3 to meet the milestones in the region's plan for compliance
4 with access requirements for intensive mental health services
5 described in section 331.397, subsection 5, the department
6 shall require the region to submit a plan of correction to
7 the department to address deficiencies in the region's plan.
8 The department shall ensure the region's plan of correction
9 addresses deficiencies in the region's plan. The department
10 shall combine and analyze the quarterly reports and make the
11 results of the reports public within thirty days of receipt of
12 all reports on a quarterly basis.

13 Sec. 4. Section 331.397, Code 2018, is amended to read as
14 follows:

15 **331.397 Regional core services.**

16 1. For the purposes of **this section**, unless the context
17 otherwise requires, "*domain*" means a set of similar services
18 that can be provided depending upon a person's service needs.

19 2. a. (1) A region shall work with service providers to
20 ensure that services in the required core service domains in
21 subsections 4 and 5 are available to residents of the region,
22 regardless of potential payment source for the services.

23 (2) Subject to the available appropriations, the director
24 of human services shall ensure the ~~initial~~ core service domains
25 listed in **subsection subsections 4 and 5** are covered services
26 for the medical assistance program under **chapter 249A** to the
27 greatest extent allowable under federal regulations. The
28 medical assistance program shall reimburse Medicaid enrolled
29 providers for Medicaid covered services under subsections 4
30 and 5 when the services are medically necessary, no other
31 third-party payer is responsible for reimbursement of such
32 services, and the Medicaid enrolled provider submits an
33 appropriate claim for such services. Within funds available,
34 the region shall pay for such services for eligible persons
35 when payment through the medical assistance program or another

1 third-party payment is not available, unless the person is on a
2 waiting list for such payment or it has been determined that
3 the person does not meet the eligibility criteria for any such
4 service.

5 *b.* Until funding is designated for other service
6 populations, eligibility for the service domains listed in this
7 section shall be limited to such persons who are in need of
8 mental health or intellectual disability services. However, if
9 a county in a region was providing services to an eligibility
10 class of persons with a developmental disability other than
11 intellectual disability or a brain injury prior to formation of
12 the region, the class of persons shall remain eligible for the
13 services provided when the region is was formed, ~~provided that~~
14 ~~funds are available to continue such services without limiting~~
15 ~~or reducing core services.~~

16 *c.* It is the intent of the general assembly to address
17 the need for funding so that the availability of the service
18 domains listed in [this section](#) may be expanded to include such
19 persons who are in need of developmental disability or brain
20 injury services.

21 3. Pursuant to recommendations made by the director of human
22 services, the state commission shall adopt rules as required by
23 section 225C.6 to define the services included in the ~~initial~~
24 ~~and additional~~ core service domains listed in [this section](#).
25 The rules shall provide service definitions, service provider
26 standards, service access standards, and service implementation
27 dates, and shall provide consistency, to the extent possible,
28 with similar service definitions under the medical assistance
29 program.

30 *a.* The rules relating to the credentialing of a person
31 directly providing services shall require all of the following:

32 *a.* (1) The person shall provide services and represent the
33 person as competent only within the boundaries of the person's
34 education, training, license, certification, consultation
35 received, supervised experience, or other relevant professional

1 experience.

2 ~~b.~~ (2) The person shall provide services in substantive
3 areas or use intervention techniques or approaches that
4 are new only after engaging in appropriate study, training,
5 consultation, and supervision from a person who is competent in
6 those areas, techniques, or approaches.

7 ~~c.~~ (3) If generally recognized standards do not exist
8 with respect to an emerging area of practice, the person
9 shall exercise careful judgment and take responsible steps,
10 including obtaining appropriate education, research, training,
11 consultation, and supervision, in order to ensure competence
12 and to protect from harm the persons receiving the services in
13 the emerging area of practice.

14 b. The rules relating to the availability of services shall
15 provide for all of the following:

16 (1) Twenty-two assertive community treatment teams.

17 (2) Six access centers.

18 (3) Intensive residential service homes that provide
19 services to up to one hundred twenty persons statewide.

20 4. The ~~initial~~ core service domains shall include the
21 following:

22 a. Treatment designed to ameliorate a person's condition,
23 including but not limited to all of the following:

24 (1) Assessment and evaluation.

25 (2) Mental health outpatient therapy.

26 (3) Medication prescribing and management.

27 (4) Mental health inpatient treatment.

28 b. Basic crisis response provisions, including but not
29 limited to all of the following:

30 (1) Twenty-four-hour access to crisis response.

31 (2) Evaluation.

32 (3) Personal emergency response system.

33 c. Support for community living, including but not limited
34 to all of the following:

35 (1) Home health aide.

1 (2) Home and vehicle modifications.

2 (3) Respite.

3 (4) Supportive community living.

4 *d.* Support for employment or for activities leading to
5 employment providing an appropriate match with an individual's
6 abilities based upon informed, person-centered choices made
7 from an array of options, including but not limited to all of
8 the following:

9 (1) Day habilitation.

10 (2) Job development.

11 (3) Supported employment.

12 (4) Prevocational services.

13 *e.* Recovery services, including but not limited to all of
14 the following:

15 (1) Family support.

16 (2) Peer support.

17 *f.* Service coordination including coordinating physical
18 health and primary care, including but not limited to all of
19 the following:

20 (1) Case management.

21 (2) Health homes.

22 5. a. To the extent federal matching funds are available
23 under the Iowa health and wellness plan pursuant to chapter
24 249N, the following intensive mental health core services shall
25 be provided in strategic locations throughout the state no
26 later than July 1, 2021, within the following core service
27 domains:

28 (1) Access centers that are located in crisis residential
29 and subacute residential settings with sixteen beds or fewer
30 that provide immediate, short-term assessments for persons with
31 serious mental illness or substance use disorders who do not
32 need inpatient psychiatric hospital treatment, but who do need
33 significant amounts of supports and services not available in
34 the persons' homes or communities.

35 (2) Assertive community treatment services.

1 (3) Comprehensive facility and community-based crisis
2 services, including all of the following:

- 3 (a) A single statewide twenty-four-hour crisis hotline.
4 (b) A mobile response.
5 (c) Twenty-three-hour crisis observation and holding.
6 (d) Crisis stabilization community-based services.
7 (e) Crisis stabilization residential services.
8 (f) Warmline services.

9 (4) Subacute services provided in facility and
10 community-based settings.

11 (5) Intensive residential service homes for persons
12 with severe and persistent mental illness in scattered site
13 community-based residential settings.

14 b. The department shall accept arrangements between multiple
15 regions sharing intensive mental health services under this
16 subsection when determining compliance to access standards for
17 such services.

18 ~~5.~~ 6. A region shall ensure that access is available
19 to providers of core services that demonstrate competencies
20 necessary for all of the following:

- 21 a. Serving persons with co-occurring conditions.
22 b. Providing evidence-based services.
23 c. Providing trauma-informed care that recognizes the
24 presence of trauma symptoms in persons receiving services.

25 ~~6.~~ 7. A region shall ensure that services within the
26 following additional core service domains are available
27 to persons not eligible for the medical assistance program
28 under [chapter 249A](#) or receiving other third-party payment for
29 the services, when public funds are made available for such
30 services:

31 ~~a. Comprehensive facility and community-based crisis~~
32 ~~services, including but not limited to all of the following:~~

- 33 ~~(1) Twenty-four-hour crisis hotline.~~
34 ~~(2) Mobile response.~~
35 ~~(3) Twenty-three-hour crisis observation and holding, and~~

1 ~~crisis stabilization facility and community-based services.~~

2 ~~(4) Crisis residential services.~~

3 ~~b. Subacute services provided in facility and~~
4 ~~community-based settings.~~

5 ~~c.~~ a. Justice system-involved services, including but not
6 limited to all of the following:

7 (1) Jail diversion.

8 (2) Crisis intervention training.

9 (3) Civil commitment prescreening.

10 ~~d.~~ b. Advances in the use of evidence-based treatment,
11 including but not limited to all of the following:

12 (1) Positive behavior support.

13 ~~(2) Assertive community treatment.~~

14 ~~(3)~~ (2) Peer self-help drop-in centers.

15 ~~7.~~ 8. A regional service system may provide funding for
16 other appropriate services or other support and may implement
17 demonstration projects for an initial period of up to three
18 years to model the use of research-based practices. In
19 considering whether to provide such funding, a region may
20 consider the following criteria for research-based practices:

21 a. Applying a person-centered planning process to identify
22 the need for the services or other support.

23 b. The efficacy of the services or other support is
24 recognized as an evidence-based practice, is deemed to be an
25 emerging and promising practice, or providing the services is
26 part of a demonstration and will supply evidence as to the
27 services' effectiveness.

28 c. A determination that the services or other support
29 provides an effective alternative to existing services that
30 have been shown by the evidence base to be ineffective, to not
31 yield the desired outcome, or to not support the principles
32 outlined in *Olmstead v. L.C.*, 527 U.S. 581 (1999).

33 Sec. 5. Section 331.424A, subsection 1, paragraph b, Code
34 2018, is amended by striking the paragraph.

35 Sec. 6. Section 331.424A, subsection 4, Code 2018, is

1 amended by striking the subsection and inserting in lieu
2 thereof the following:

3 4. An amount of unobligated and unencumbered funds, as
4 specified in the regional governance agreement entered into
5 by the county under section 331.392, shall be reserved in the
6 county services fund to address cash flow obligations.

7 Sec. 7. Section 331.424A, subsection 9, Code 2018, is
8 amended to read as follows:

9 9. a. For the fiscal year beginning July 1, 2017, and each
10 subsequent fiscal year, the county budgeted amount determined
11 for each county shall be the amount necessary to meet the
12 county's financial obligations for the payment of services
13 provided under the regional service system management plan
14 approved pursuant to [section 331.393](#), not to exceed an amount
15 equal to the product of the regional per capita expenditure
16 target amount multiplied by the county's population, ~~and, for~~
17 ~~fiscal years beginning on or after July 1, 2021, reduced by~~
18 ~~the amount of the county's cash flow reduction amount for the~~
19 ~~fiscal year calculated under [subsection 4](#), if applicable.~~

20 b. If a county officially joins a different region, the
21 county's budgeted amount shall be the amount necessary to meet
22 the county's financial obligations for payment of services
23 provided under the new region's regional service system
24 management plan approved pursuant to section 331.393, not to
25 exceed an amount equal to the product of the new region's
26 regional per capita expenditure target amount multiplied by the
27 county's population.

28 Sec. 8. MENTAL HEALTH AND DISABILITY SERVICES REGIONS —
29 FY 2018 ANNUAL REPORTS. Each mental health and disability
30 services region's annual report due to the department of human
31 services on or before December 1, 2018, pursuant to section
32 331.393, subsection 3, paragraph "a", shall include a plan
33 that identifies milestones for meeting intensive mental health
34 service requirements described in section 331.397, subsection
35 5, no later than July 1, 2021. The plan shall, at a minimum,

1 include information relating to processes, implementation time
 2 frames, plans for collaboration with other regions and the
 3 Medicaid program, and the region's associated budget plan.

4 Sec. 9. EMERGENCY RULES. If specifically authorized by
 5 a provision of this Act, the department of human services
 6 or the mental health and disability services commission may
 7 adopt administrative rules under section 17A.4, subsection 3,
 8 and section 17A.5, subsection 2, paragraph "b", to implement
 9 provisions of this Act and the rules shall become effective
 10 immediately upon filing or on a later effective date specified
 11 in the rules, unless the effective date of the rules is
 12 delayed or the applicability of the rules is suspended by the
 13 administrative rules review committee. Any rules adopted in
 14 accordance with this section shall not take effect before
 15 the rules are reviewed by the administrative rules review
 16 committee. The delay authority provided to the administrative
 17 rules review committee under section 17A.4, subsection 7, and
 18 section 17A.8, subsection 9, shall be applicable to a delay
 19 imposed under this section, notwithstanding a provision in
 20 those sections making them inapplicable to section 17A.5,
 21 subsection 2, paragraph "b". Any rules adopted in accordance
 22 with the provisions of this section shall also be published as
 23 a notice of intended action as provided in section 17A.4.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
 26 the explanation's substance by the members of the general assembly.

27 This bill relates to mental health and disability services
 28 and funding.

29 Under current law, the department of inspections and appeals
 30 is required to issue a license to an applicant for a subacute
 31 mental health care facility if the department of inspections
 32 and appeals has ascertained that the applicant's facilities and
 33 staff are adequate to provide the care and services required
 34 of a subacute care facility. The bill strikes additional
 35 conditions for licensure requiring the department of human

1 services to submit written approval of the application based
2 upon the process used by the department of human services
3 to identify the best qualified providers, prohibiting the
4 department of human services from approving an application
5 which would cause the number of publicly funded subacute
6 care facility beds to exceed 75 beds, and requiring that the
7 subacute care facility beds identified be new beds located in
8 hospitals and facilities licensed as a subacute care facility
9 under Code chapter 135G.

10 Under current law, each mental health and disability
11 services region is required to submit an annual report to the
12 department of human services on or before December 1. The
13 annual report is required to provide information on the actual
14 numbers of persons served, moneys expended, and outcomes
15 achieved.

16 The bill provides each region shall additionally submit
17 a quarterly report to the department. Each quarterly report
18 shall provide information on the accessibility of intensive
19 mental health services and the progress the region has made
20 in meeting the region's milestones for compliance with such
21 service requirements using forms and procedures established by
22 the department. If a region fails to meet the milestones in
23 the region's plan for compliance with such access requirements,
24 the department shall require the region to submit a plan of
25 correction to the department to address deficiencies in the
26 region's plan. The department shall ensure the region's plan
27 of correction addresses deficiencies in the region's plan. The
28 department shall combine and analyze the quarterly reports
29 and make the results of the reports public within 30 days of
30 receipt of all reports on a quarterly basis.

31 Under current law, subject to available appropriations,
32 the director of human services shall ensure that a mental
33 health and disability services region's core service domains
34 are covered services for the medical assistance program under
35 Code chapter 249A to the greatest extent allowable under

1 federal regulations. The bill provides the medical assistance
2 program shall reimburse Medicaid enrolled providers for
3 Medicaid covered core services when the services are medically
4 necessary, and the Medicaid enrolled provider submits an
5 appropriate claim for such services. No other third-party
6 payer is responsible for reimbursement of such services.

7 The bill provides that the administrative rules of the state
8 mental health and disability services commission relating to
9 the availability of mental health and disability services
10 shall, in addition to other mental health and disability
11 service requirements, provide for 22 assertive community
12 treatment teams, six access centers, and intensive residential
13 service homes that serve up to 120 persons statewide.

14 The bill provides that, to the extent matching federal
15 funding is available under the Iowa health and wellness plan,
16 intensive mental health core services shall be provided in
17 strategic locations throughout the state on or before July 1,
18 2021, within certain core service domains including access
19 centers that are located in crisis residential and subacute
20 residential settings, assertive community treatment services,
21 comprehensive facility and community-based crisis services,
22 subacute services, and intensive residential service homes.
23 The bill provides the department of human services shall
24 accept arrangements between multiple regions sharing intensive
25 mental health services when determining compliance with access
26 standards for such services.

27 Current Code section 331.391 establishes requirements
28 related to the permissible amount of cash flow for each mental
29 health and disability services region. For fiscal years
30 beginning July 1, 2017, July 1, 2018, and July 1, 2019, that
31 portion of each region's cash flow amount that exceeds 25
32 percent of the gross expenditures from the region's combined
33 account or from all separate county accounts under the control
34 of the governing board in the fiscal year preceding the fiscal
35 year in progress are required to be used in whole or in part

1 to fund the payment of mental health and disabilities services
2 provided under the regional service system management plan.
3 Current law also imposes similar requirements for the amount of
4 unobligated and unencumbered funds that are reserved in each
5 county's county services fund to address cash flow obligations
6 in the next fiscal year, imposes annual reporting requirements
7 for region and county cash flow amounts, and imposes, for
8 fiscal years beginning on or after July 1, 2021, either a 20
9 or 25 percent limitation on each county or region's cash flow
10 amount based on the region's population. Current law also
11 requires that for fiscal years beginning on or after July 1,
12 2021, of a county's cash flow amount maintained in the county
13 services fund or of the region's cash flow amount attributable
14 to the county, the county budgeted amount, used to limit the
15 amount of property taxes levied by the county, is reduced
16 by the county's cash flow reduction amount. The cash flow
17 reduction amount is equal to the amount of the county's cash
18 flow in excess of the permissible percentage limits based on
19 population of the region.

20 The bill strikes the requirement for fiscal years beginning
21 July 1, 2017, July 1, 2018, and July 1, 2019, that the portion
22 of each county's or region's cash flow amount that exceeds
23 the 25 percent limitation be used in whole or in part to fund
24 the payment of mental health and disability services provided
25 under a region's regional service system management plan. The
26 bill also strikes the reporting requirements for counties and
27 regions and eliminates the reduction in a county's budgeted
28 amount due to the county's cash flow reduction amount for
29 fiscal years beginning on or after July 1, 2021. The bill
30 establishes a limitation on the cash flow amount of a region
31 equal to 30 percent of the gross expenditures budgeted for
32 the fiscal year in progress for the combined account of the
33 region or for all regional accounts and requires residual
34 funding remaining in excess of such limitation to be used to
35 expand the region's core services and then make additional core

1 services available. The bill also provides that an amount of
2 unobligated or unencumbered funds, as specified in the regional
3 governance agreement, is required to be reserved in each
4 county's county services fund to address cash flow obligations.

5 Under the bill, if a county officially joins a different
6 mental health and disability services region, that county's
7 budgeted amount shall be the amount necessary to meet the
8 county's financial obligations for payment of services provided
9 under the new region's regional service system management
10 plan, not to exceed an amount equal to the product of the
11 new region's regional per capita expenditure target amount
12 multiplied by the county's population.

13 The bill provides that each mental health and disability
14 services region, in the region's annual report due to the
15 department of human services on or before December 1, 2018,
16 shall include a plan that identifies milestones for meeting
17 intensive mental health service requirements described in Code
18 section 331.397(5), no later than July 1, 2021. The plan
19 shall, at a minimum, include information relating to processes,
20 implementation time frames, plans for collaboration with other
21 regions and the Medicaid program, and the region's associated
22 budget plan.

23 The bill provides that the department of human services or
24 the mental health and disability services commission may adopt
25 emergency rules to implement the provisions of the bill.