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BILL ANALYSIS



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Senate Bill 1048 (as introduced 5-22-96)
Sponsor: Senator Joel D. Gougeon
Committee: Families, Mental Health and Human Services

Date Completed: 9-19-96

CONTENT

The bill would amend the Mental Health Code to specify that a county's immunity from liability for acts or obligations of a community mental health authority would apply only to county government; extend a county's exemption from financial liability to apply to services provided under criminal statutes; provide for the extension of continuing involuntary hospitalization beyond the current one-year maximum under certain circumstances; require consent for the administration of psychotropic drugs; and require a responsible party to pay for services to the extent of his or her insurance benefits or ability to pay.

Community Mental Health Authority

The bill would delete the provision that the privileges, immunities from liability, and exemptions from laws, ordinances, and rules that are granted to a community mental health authority created under the Code and its board members, officers, agents and employees do not include the immunity granted to a county.

The Code specifies that a county that has created a community mental health authority is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a community mental health authority, its board, employees, representatives, or agents. The bill specifies that this provision would apply only to county government.

Local Match

The Code specifies that a county is financially liable for 10% of the net cost of any service that is provided by the Department, directly or by contract, to a resident of that county. This provision, however, does not apply to family support subsidies established under the Code, or to a service provided to an individual under criminal sentence to a state prison. The bill would add that the provision would not apply to a service provided under any provision of a criminal statute.

Continuing Hospitalization

The bill specifies that at least 14 days before the expiration of a one-year order of continuing hospitalization made under the Code, if the hospital believed that the individual continued to require treatment, and if the individual were expected to refuse to continue treatment on a voluntary basis when the order expired, the hospital director would have to notify the executive director and petition

the court both for a determination that the individual continued to require treatment and for an order authorizing one of the following:

- Continuing hospitalization for a period of not more than one year from the date of expiration of the previous order.
- Alternative treatment or combined hospitalization and alternative treatment for a period of not more than one year from the date of expiration of the previous order.

An individual who on March 28, 1996, was subject to an order of continuing hospitalization for an indefinite period of time would have to be brought for hearing no later than the date of the second six-month review that occurred after March 28, 1996. If the court found at the hearing that the individual continued to require treatment, the court would have to enter an order authorizing continuing mental health treatment.

Psychotropic Drugs

The bill would require the consent of the recipient, his or her guardian, if any, or the parent of a minor before any psychotropic drugs were first administered to a recipient. This provision would not apply, however, to an individual who was subject to an order of involuntary mental health treatment.

Financial Liability for Mental Health Services

The Code specifies that a responsible party is financially liable for the cost of services provided to the individual directly by or by contract with the Department of Community Health (DCH) or a community mental health services program (CMHSP). The bill specifies instead that a responsible party is obligated to pay for the cost of services provided to the individual directly by or under contract with the DCH or a CMHSP to the extent of the responsible party's insurance benefits and ability to pay.

The Code requires the DCH or CMHSP to complete a new determination of insurance coverage and ability to pay if informed of a significant change in a responsible party's ability to pay. The bill would require them to complete a new determination of financial liability if informed of a significant change in a responsible party's total financial circumstances.

Currently, the Code defines "ability to pay" as the ability of a responsible party to pay for the cost of services, as determined by the DCH. The bill would define the term as the ability of a responsible party to pay for the cost of services, as determined by the DCH or a CMHSP.

The bill would amend the Code's provisions concerning financial responsibility for mental health services to replace references to "insurance coverage and ability to pay" with "financial liability", replace the Code's current references to "financial liability" with "obligation to pay", and define "financial liability" as insurance coverage and other benefits together with ability to pay for the cost of services. The Code currently does not define "financial liability".

The bill would delete Medicaid from the definition of insurance coverage. The bill would define "responsible party" as a person who is legally obligated to pay, rather than financially liable, for services furnished to the individual.

The bill would amend the definition of “residential services” to mean 24-hour dependent care and treatment services provided for foster care facilities, not just adult foster care facilities as the Code currently specifies.

MCL 330.1152

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill contains a number of minor revisions to the Mental Health Code. The change with potential for a fiscal impact is the one that would allow a hospital director to petition for continued involuntary hospitalization of up to one year if he or she believed it to be necessary. This would be in addition to the current petition system, which permits hospitalization for up to 90 days, alternative treatment combined with hospitalization for up to one year, or indefinite continued hospitalization. This provision could lead to longer hospital stays with indeterminate increased costs.

Fiscal Analyst: S. Angelotti

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.