

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader - Revised

House Bill 935 (Delegate Bagnall)
 Health and Government Operations and
 Appropriations

Health and Health Insurance - Behavioral Health Services - Expansion
 (Behavioral Health System Modernization Act)

This bill alters and expands Medicaid coverage of specified home- and community-based services for children and youth, and requires Medicaid and insurers, nonprofit health service plans, and health maintenance organizations (collectively known as carriers) to provide coverage for specified behavioral health services. The Maryland Department of Health (MDH) must seek federal authority to implement a plan to expand certified community behavioral health clinics in the State, prepare and submit a plan, and submit other specified reports. Beginning in fiscal 2024, the Governor must include in the annual budget bill specified appropriations to fund behavioral health services and supports. **The bill’s insurance provisions apply to all policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or after January 1, 2023.**

Fiscal Summary

State Effect: Medicaid expenditures increase by *at least* \$41.6 million (61% federal funds, 39% general funds) in FY 2023; federal fund revenues increase accordingly. General fund expenditures increase by \$424,200 in FY 2023 for waiver slots. Future years reflect annualization. Expenditures for the State Employee and Retiree Health and Welfare Benefits Program increase by an indeterminate amount beginning in FY 2023 (not shown below). **This bill increases the cost of an entitlement program beginning in FY 2023. This bill establishes mandated appropriations beginning in FY 2024.**

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	-	\$0	\$0	\$0	\$0
FF Revenue	\$25.5	\$45.2	\$45.2	\$45.2	\$45.2
GF Expenditure	\$0.4	\$0.7	\$0.8	\$0.9	\$0.9
GF/FF Exp.	\$41.6	\$73.6	\$73.6	\$73.6	\$73.6
Net Effect	(\$16.5)	(\$29.1)	(\$29.2)	(\$29.3)	(\$29.3)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Health insurance costs likely increase for local governments that purchase fully insured plans. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Behavioral health crisis response services” means evidence-based resources designed to serve individuals experiencing a mental health or substance use emergency, including crisis call centers and hotline services, mobile crisis services, and crisis receiving and stabilization services.

“Certified peer recovery specialist” means an individual who has been certified by an entity approved by MDH for the purpose of providing peer support services.

“Measurement-based care” means an evidence-based practice that involves the systematic collection of data to monitor treatment progress, assess outcomes, and guide treatment decisions, from initial screening to completion of care, that is used to evaluate symptoms, functioning and satisfaction with life, readiness to change, and the treatment process.

Medicaid Behavioral Health Services

Beginning January 1, 2023, Medicaid must provide reimbursement for (1) services provided by a certified peer recovery specialist; (2) measurement-based care provided in behavioral health settings, including outpatient mental health centers; and (3) behavioral health crisis response services. This requirement is subject to the limitations of the State budget and as permitted by federal law.

The bill repeals the Collaborative Care Pilot Program and related language and instead requires MDH to provide reimbursement for services provided in accordance with the Collaborative Care Model statewide in primary care settings that provide health care services to Medicaid recipients.

Medicaid Home- and Community-based Services for Children and Youth/1915(i) Waiver

“Wraparound services” means services provided to children and youth with intensive mental health needs and their families in their communities, including (1) intensive care coordination; (2) child and family team meetings; and (3) plans of care that are individualized to each family and include formal and informal supports, as specified.

MDH must provide reimbursement for (1) wraparound services delivered by care coordinators under the 1915(i) Waiver or a mental health case management program commensurate with industry standards for the reimbursement of such services and (2) intensive in-home services delivered by providers using family-centered treatment, functional family therapy, and other evidence-based practices under the 1915(i) Waiver, as specified. MDH must ensure that care coordinators delivering services under the 1915(i) Waiver/mental health case management program receive training in the delivery of wraparound services.

Beginning in fiscal 2023, the Behavioral Health Administration (BHA) must fund 100 slots in the mental health case management program (1915(i) Waiver) for children or youth who are not eligible for Medicaid services and are at risk of out-of-home placement.

The Governor must include in the annual operating budget bill the following amounts to fund customized goods and services for youth receiving services under the 1915(i) Waiver/mental health case management program: \$150,000 in fiscal 2024, \$250,000 in fiscal 2025, and \$350,000 in fiscal 2026 and each fiscal year thereafter.

Uncodified language requires MDH, by December 1, 2023, to review current eligibility requirements for the 1915(i) Waiver, and mental health case management generally, and submit recommendations for expanding eligibility and enrollment in these programs to the General Assembly. MDH must also review and consider options for expanding specified home- and community-based services for children and youth or adopting other existing programs or services to provide wraparound services to children and youth with primary substance use disorders.

Insurance Provisions

A carrier must provide coverage for behavioral health crisis response services and measurement-based care provided in a behavioral health setting.

If a policy or contract provides for reimbursement for a service that is within the lawful scope of activities of a certified peer recovery specialist providing services under the supervision of a behavioral health program licensed by the Secretary of Health, the insured or any other person covered by the policy or contract is entitled to reimbursement for the service.

Funding for Wellness and Recovery Centers, Recovery Community Centers, and Peer Recovery Services

The Governor must include in the annual budget bill the following amounts for wellness and recovery centers, recovery community centers, and peer recovery services:

\$15.0 million in fiscal 2024, \$18.0 million in fiscal 2025, \$21.0 million in fiscal 2026, and \$24.0 million in fiscal 2027 and each fiscal year thereafter.

Certified Community Behavioral Health Clinics

By December 1, 2022, MDH must obtain any federal authority necessary to implement a plan for the expansion of certified community behavioral health clinics (CCBHCs) in the State, including applying to the federal Centers for Medicare and Medicaid Services for an amendment to any of the State's § 1115 waivers or the State Plan. MDH's implementation plan must ensure access to CCBHCs in all counties in the State.

Current Law:

Maryland Behavioral Health Crisis Response System

Behavioral Health Crisis Response Services must (1) operate a statewide network utilizing existing resources and coordinating interjurisdictional services to develop efficient and effective crisis response systems to serve all individuals in the State, 24 hours a day and 7 days a week; (2) provide skilled clinical intervention to help prevent suicides, homicides, unnecessary hospitalizations, and arrests or detention, and to reduce dangerous or threatening situations involving individuals in need of behavioral health services; and (3) respond quickly and effectively to community crisis situations.

Behavioral Health Crisis Response Grant Program

Chapter 209 of 2018 established a Behavioral Health Crisis Response Grant Program in MDH to provide funds to local jurisdictions to establish and expand community behavioral health crisis response systems. The Governor was required to include the following appropriations in the State operating budget for the program: (1) \$3.0 million in fiscal 2020; (2) \$4.0 million in fiscal 2021; and (3) \$5.0 million in fiscal 2022. Chapters 755 and 756 of 2021 expand the grant program, extend the term of the \$5.0 million mandated appropriation through fiscal 2025, and beginning in fiscal 2023, require at least one-third of the mandated appropriation be used to award competitive grants for mobile crisis teams.

1915(i) Waiver

Under the 1915(i) Waiver, Medicaid provides a full range of somatic and behavioral health benefits as well as other specialized services (including mental health targeted case management) to children and youth who meet applicable medical necessity criteria.

Collaborative Care Model and Collaborative Care Pilot Program

“Collaborative Care Model” means an evidence-based approach for integrating somatic and behavioral health services in primary care settings that includes (1) care coordination and management; (2) regular, proactive outcome monitoring and treatment for outcome targets using standardized outcome measurement rating scales and electronic tools; and (3) regular systematic psychiatric and substance use disorder caseload reviews and consultation with specified providers.

Chapters 683 and 684 of 2018 established a Collaborative Care Pilot Program to implement a Collaborative Care Model in primary care settings for HealthChoice Medicaid recipients. For fiscal 2020 through 2023, the Governor must include in the annual budget an appropriation of \$550,000 for the pilot program. MDH provided [a report on the pilot program](#) in response to the 2021 *Joint Chairmen’s Report*. Although more limited than initially projected due to the COVID-19 pandemic, preliminary results suggest that the pilot has improved clinical outcomes. MDH estimates that implementing the model statewide would cost between \$18.8 million and \$32.4 million in total funds annually. MDH recommended continuing the pilot program until the end of fiscal 2023 and conducting a full evaluation at that time.

State Fiscal Effect: **Appendix 1** shows the estimated expenditures anticipated under the bill that are reflected in this analysis.

Medicaid Behavioral Health Services

Under the bill, Medicaid must reimburse for services provided by a certified peer recovery specialist, measurement-based care provided in behavioral health settings, and behavioral health crisis response services. MDH must also provide reimbursement for services provided in accordance with the Collaborative Care Model statewide in primary care settings that provide health care services to Medicaid recipients.

Certified Peer Recovery Specialists: MDH estimates that 112,597 Medicaid enrollees (49,152 for mental health and 63,445 for substance use disorders) will receive services from certified peer recovery specialists under the bill. Assuming each participant receives 12 hours of services annually, 650 per recovery specialists are required. MDH advises that the rates for these services are likely set based on salaries and indirect costs. The annual estimated cost for these services is \$42.3 million (60% federal funds, 40% general funds). In fiscal 2023, Medicaid expenditures increase by \$21.2 million to reflect the requirement that coverage for these services begin January 1, 2023. To the extent that a lesser number of individuals receive such services, Medicaid expenditures are lower than estimated. This analysis assumes that Medicaid reimbursement for services provided by certified peer

recovery specialists is applied against the bill's mandated appropriation for wellness and recovery centers, recovery community centers, and peer recovery services.

Measurement-based Care: MDH advises that it would reimburse providers for data reporting of measurement-based care at a rate of \$15 per form submitted through the Outcomes Measurement System. Approximately 475,000 forms are assumed to be submitted annually, resulting in an annual cost of \$7.1 million (75% federal funds, 25% general funds). In fiscal 2023, Medicaid expenditures increase by \$3.6 million to reflect the requirement that coverage for these services begin January 1, 2023.

Behavioral Health Crisis Response Services: The fiscal 2023 budget includes \$4.8 million in total funds to support 12 mobile crisis providers, which have an annual operating cost of \$400,000. To ensure Medicaid enrollees have access to behavioral health crisis response services statewide, at least 12 additional mobile crisis services must be established at an estimated annual cost of \$4.8 million (60% federal funds, 40% general funds). To the extent additional providers are required to support an adequate network, expenditures increase further. In fiscal 2023, Medicaid expenditures increase by \$2.4 million to reflect the requirement that coverage for these services begin January 1, 2023.

Collaborative Care Model: MDH estimates that 42,999 Medicaid enrollees (including both fee-for-service and managed care organization enrollees) are eligible for these services and approximately 58% of those eligible will receive services (based on participation rates for the pilot program) at an average annual cost of \$775.30. The annual estimated cost of expanding the Continuity of Care Model statewide is \$19.3 million (60% federal funds, 40% general funds). In fiscal 2023, Medicaid expenditures increase by \$14.5 million to reflect the bill's October 1, 2022 effective date.

Medicaid Home- and Community-based Services for Children and Youth/1915(i) Waiver

1915(i) Waiver: Under the bill, BHA must fund 100 additional slots in the 1915(i) Waiver for children or youth who are not eligible for Medicaid and who are at risk of out-of-home placement. MDH advises that the average monthly cost for 1915(i) Waiver services is \$471.34 per member per month. Thus, Medicaid general fund expenditures increase by an estimated \$565,608 annually to fund 100 additional slots. Because these services are for individuals who are *not* eligible for Medicaid, federal matching funds are not available. In fiscal 2023, Medicaid general fund expenditures increase by \$424,206 to reflect the bill's October 1, 2022 effective date.

This estimate does not reflect the cost of any additional changes that may be required under the bill to the 1915(i) Waiver such as expansion of targeted case management services.

Required Reviews and Reports: The bill requires MDH to (1) review and consider options for expanding home- and community-based services for children and youth or adopting other existing programs or services to provide wraparound services to children and youth with primary substance use disorders and (2) by December 1, 2023, review current eligibility requirements for the 1915(i) Waiver (and mental health case management generally) and submit specified recommendations to the General Assembly. This estimate assumes that MDH can conduct these reviews and report to the General Assembly using the additional staff resources required to implement the bill (discussed below).

Mandated Funding for Customized Goods and Services for Youth under the 1915(i) Waiver: General fund expenditures increase by \$150,000 in fiscal 2024, \$250,000 in fiscal 2025, and \$350,000 in fiscal 2026 and each fiscal year thereafter to reflect the bill's mandated appropriation to fund customized goods and services for youth served under the 1915(i) Waiver.

Certified Community Behavioral Health Clinics

Under the bill, MDH must obtain any federal authority necessary to implement a plan for the expansion of CCBHCs in the State, including applying for any necessary waiver or State Plan amendments. The plan must ensure access to CCBHCs in all counties in the State. This estimate assumes that MDH can obtain federal authority and *prepare* a plan using the additional staff resources required to implement the bill (discussed below). This estimate *does not* reflect any costs associated with *implementation* of the plan. However, MDH advises that the cost for CCBHCs to serve Medicaid enrollees in every county could be \$727.1 million annually (55% general funds, 45% federal funds).

Mandated Funding for Wellness and Recovery Centers, Recovery Community Centers, and Peer Recovery Services

The bill requires the Governor to provide in the annual budget bill the following amounts for wellness and recovery centers, recovery community centers, and peer recovery services: \$15.0 million in fiscal 2024, \$18.0 million in fiscal 2025, \$21.0 million in fiscal 2026, and \$24.0 million in fiscal 2027 and each fiscal year thereafter. This analysis assumes that Medicaid reimbursement for services provided by certified peer recovery specialists (required under the bill) is applied against this mandated appropriation. To the extent that such funding is not applied against the mandated appropriation, general fund expenditures increase by \$15.0 million in fiscal 2024, \$18.0 million in fiscal 2025, \$21.0 million in fiscal 2026, and \$24.0 million in fiscal 2027 and each fiscal year thereafter.

Additional Staffing for the Maryland Department of Health

MDH advises that the bill results in a major expansion in the number, type, and scale of services provided through the public behavioral health system and requires additional staff to manage the licensure, monitoring, fiscal activities, policy, and regulatory activities associated with implementing several major new initiatives. This estimate does not reflect the cost of any additional staff required by MDH to implement the bill. However, MDH advises that at least 20 new full-time equivalent positions are required at cost of approximately \$1.7 million annually.

Insurance Provisions

The State Employee and Retiree Health and Welfare Benefits Program is largely self-insured for its medical contracts and, as such, except for the one fully insured integrated health model medical plan (Kaiser), is not subject to insurance mandates. However, the program generally provides coverage for mandated benefits. The bill requires coverage for behavioral health crisis response services and measurement-based care provided in a behavioral health setting, as well as reimbursement for specified services provided by a certified peer recovery specialist. The Department of Budget and Management (DBM) advises that the State's medical plans currently offer mental health services, including crisis response services. The State also offers an Employee Assistance Program that provides a 24/7 crisis response hotline called MyMDCares. DBM notes that program expenditures increase under the bill by an indeterminate amount.

Small Business Effect: Small business behavioral health care providers that provide services for which reimbursement is mandated under the bill or for which additional funding is required serve additional clients and receive additional reimbursement.

Additional Comments: To the extent that expenditures on additional services under the bill improve individuals' behavioral health and reduce the need for other behavioral health services, overall expenditures are likely offset over the long term.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 637 (Senator Augustine) - Finance.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Maryland Health Benefit Exchange; Maryland Insurance Administration; Department of Legislative Services

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Appendix 1
Estimated Expenditures under the Bill Reflected in this Analysis
(\$ in Millions)

<u>Provision</u>	<u>Date Effective</u>	<u>Annualized Cost</u>	<u>Fiscal 2023</u>	<u>Fiscal 2024</u>	<u>Fiscal 2025</u>	<u>Fiscal 2026</u>	<u>Fiscal 2027</u>
Certified Peer Recovery Specialists ¹	1/1/23	\$42.30	\$21.15	\$42.30	\$42.30	\$42.30	\$42.30
Collaborative Care Model Statewide ¹	10/1/22	19.34	14.50	19.34	19.34	19.34	19.34
WRC, RCC, and PRS ²	7/1/23	–	–	–	–	–	–
Measurement-based Care ³	1/1/23	7.13	3.56	7.13	7.13	7.13	7.13
Mobile Crisis Services ¹	1/1/23	4.80	2.40	4.80	4.80	4.80	4.80
Expansion of 1915(i) Waiver ⁴	10/1/22	0.57	0.42	0.57	0.57	0.57	0.57
Customized Goods and Services ²	7/1/23	–	–	0.15	0.25	0.35	0.35
Total		–	\$42.04	\$74.28	\$74.38	\$74.48	\$74.48

PRS: peer recovery services

RCC: recovery community centers

WRC: wellness and recovery centers

¹ Eligible for 60% federal matching funds.

² The bill also requires mandated appropriations of \$15.0 million in fiscal 2024, \$18.0 million in fiscal 2025, \$21.0 million in fiscal 2026, and \$24.0 million in fiscal 2027 and thereafter for wellness and recovery centers, recovery community centers, and peer recovery services. This analysis assumes that Medicaid funding for certified peer recovery specialists is applied against this mandated appropriation. To the extent that it is not, general fund expenditures increase by these additional amounts beginning in fiscal 2024.

³ Eligible for 75% federal matching funds.

⁴ State general funds only.

Notes: This does not reflect indeterminate costs for the State Employee and Retiree Health and Welfare Benefits Program or additional staffing costs for the Maryland Department of Health. Required behavioral health crisis response services are reflected above as mobile crisis services. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services; Maryland Department of Health