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## **An Act Regarding the Creation of Capitated Behavioral Health Pilot Programs**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 34-B MRSA §3612** is enacted to read:

### **§ 3612. Capitated behavioral health pilot programs**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Administrative services" means administrative services provided by an insurance company or management entity to the network manager, including but not limited to billing, practice management and marketing. "Administrative services" does not include assumption of fiscal responsibility based on behavioral health services use by an eligible resident.

B. "Behavioral health services" or "services" means services provided by a provider licensed by the State to provide mental health or substance abuse treatment and services.

C. "Capitated system" means a system of delivering, managing and paying for behavioral health services in which payment is based on the number of persons served for a defined period of time. The rate per person may be adjusted based on actuarial projections.

D. "Eligible resident" means a resident of Kennebec County, Somerset County or Aroostook County, 21 years of age or older, who is eligible for publicly funded behavioral health services.

E. "Network" means the participating providers who contract with the network manager to provide services in a pilot program.

F. "Network manager" means the entity that, under contract with the department, is responsible for developing the network, allocating resources, contracting with participating providers and evaluating outcomes.

G. "Participating provider" means a provider who contracts with the network manager to provide services in a pilot program. "Participating provider" does not include a state institution as defined in section 1001, subsection 8 or a hospital licensed by the department solely for the treatment of mental illness.

H. "Pilot program" means a program of behavioral health services provided through a capitated system established under this section.

I. "Provider" means an individual or organization licensed by the State to provide behavioral health services that provides those services in Kennebec County, Somerset County or Aroostook County.

**2. Establishment of pilot programs.** The department shall develop 2 pilot programs of behavioral health services provided through a capitated system, one covering eligible residents of Aroostook County and one covering eligible residents of Kennebec County and Somerset County, for a period of 3 to 5 years beginning July 1, 2010. The pilot programs must improve the effectiveness and efficiency of behavioral health services and maintain consumer choice of provider. The department shall operate the pilot programs through contract with a network manager under standards established by rule by the department.

**3. Requirements for the pilot programs.** A pilot program must provide behavioral health services that:

- A. Meet the State's obligations under the consent decree issued on August 20, 1990 by the Superior Court, Kennebec County, in Civil Action Docket No. 89-88;
- B. Include a core set of services that are necessary, efficient and effective and a broader array of services when appropriate;
- C. Reduce the use of expensive treatment options, such as inpatient hospitalization, in favor of less intensive, community-based behavioral health services;
- D. Improve access to services in the counties served; and
- E. As appropriate for eligible residents, include inpatient services at acute care and psychiatric hospitals, 24-hour crisis services, outpatient and community-based services and supports and prescription drug coverage.

**4. Requirements for network manager.** The network manager must:

- A. Be incorporated as a nonprofit behavioral health management organization, with a membership consisting of providers of behavioral health services in the region that will be covered by the pilot program, and have an office and primary place of business in one of the counties in which services will be provided;
- B. Have provided publicly funded services, through the behavioral health management organization or through its member providers, in at least one of the counties served by the pilot programs prior to being named by the department as network manager; and
- C. Be governed by a board that includes consumers, family members of consumers, local business people and other community stakeholders who are familiar with the health, welfare and social service needs of eligible residents.

**5. Duties of network manager.** The network manager shall operate the pilot program in the county or counties covered by the pilot program, enter into contracts with participating providers, establish access standards for behavioral health services, monitor the quality of care, report to the department information on the outcomes of services provided to eligible residents and pay participating providers for services provided to eligible residents.

A. The network manager is accountable to the pilot program for the quality of services delivered to eligible residents based on nationally recognized quality standards.

B. The network manager is accountable for performance under the pilot program, whether the network manager provides all services directly or indirectly, through a contract for administrative services with an insurance carrier or managed care company or through a contract for other services provided with another person or entity.

**6. Funding.** Funding for the pilot programs must equal the amount of appropriated General Fund and allocated federal funding spent on behavioral health services, including but not limited to MaineCare, for the eligible residents of Kennebec County, Somerset County and Aroostook County during state fiscal year 2007-08, including crisis services, hospitalization and prescription drug services. Funding for the pilot programs for the entire year at the contracted rate must be allocated to the network manager at the beginning of the contract period to facilitate efficient service implementation and network provider reimbursement.

**7. Rules; exemption.** The department shall adopt rules to carry out the purpose of this section, including rules to exempt the pilot programs from requirements of review, limitation and prior authorization that would otherwise apply under the rules of the department for publicly funded providers of behavioral health services. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**8. Support of pilot programs.** The department shall support the development of new services or programming for the pilot programs through licensing changes or waivers if such new services or programming is determined by the department to be effective and efficient.

**9. Behavioral Health Pilot Program Oversight Committee.** There is established the 7-member Behavioral Health Pilot Program Oversight Committee, referred to in this subsection as "the committee," to review the work of the pilot programs on a monthly basis. The committee shall review outcomes of the pilot programs on an ongoing basis and report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the activities and outcomes of the pilot programs in January of each year of the pilot programs. The members are appointed for the duration of the pilot programs.

A. The President of the Senate shall appoint 3 members of the Senate and the Speaker of the House of Representatives shall appoint 4 members of the House of Representatives to the committee, giving preference to members of the joint standing committee having jurisdiction over health and human services matters.

B. The department shall provide staffing and necessary support services to the committee.

**10. Evaluation.** The department shall contract for the services of an entity to evaluate the operation of the pilot program and the performance of the network manager. The evaluating entity must have experience in the evaluation of capitated systems and must report to the department and the joint standing committee having jurisdiction over health and human services matters by July 1, 2011 and annually thereafter for each year that the pilot program operates.

## SUMMARY

This bill establishes 2 capitated behavioral health pilot programs, one in Kennebec County and Somerset County and one in Aroostook County, to serve eligible adult residents of those counties. The programs must provide an array of behavioral health services that meets the State's obligations under the consent decree in *Bates v. Harvey*, Kennebec County Superior Court Civil Action Docket No. 89-88; provide a core set of behavioral health services that are necessary, efficient and effective; and reduce the use of expensive treatment options, such as inpatient hospitalization, in favor of less intensive, community-based behavioral health service. The pilot programs will be overseen by an oversight committee consisting of Legislators and evaluated by an entity with experience in evaluating capitated behavioral health systems.