

2024 Regular Session

SENATE BILL NO. 359

BY SENATOR LUNEAU

BEHAVIORAL HEALTH. Provides relative to behavioral health. (gov sig)

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AN ACT

To enact Chapter 2 of Title 28 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 28:301 through 308, relative to implementation of a system for delivery of specialized behavioral health services by a managed behavioral health organization; to provide for a short title; to provide for legislative intent; to provide for definitions; to authorize and implement a statewide delivery system of specialized behavioral health services; to require a competitive request for proposals process for selection of and contracting with a managed behavioral health organization; to provide for statewide management organization participation and network obligations; to provide for enrollment procedure; to provide for certain mandatory participant enrollment; to provide for exclusions; to provide for enrollee rights and obligations; to provide for benefits and services delivery requirements; to establish and provide for reimbursement methodology and procedure; to provide for appeal and grievance procedures; to provide for mandatory reporting; to provide for effectiveness; and, to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 2 of Title 28 of the Louisiana Revised Statutes of 1950, comprised

1 of R.S. 28:301 through 308, is hereby enacted to read as follows:

2 CHAPTER 2. LOUISIANA MANAGED BEHAVIORAL HEALTH

3 ORGANIZATION ACT

4 §301. Short title; legislative intent

5 A. This Chapter shall be known and may be cited as the "Louisiana  
6 Managed Behavioral Health Organization Act".

7 B. (1) The legislature hereby finds and declares it is vitally important to  
8 the public health, interest, and welfare of Louisiana's citizens to authorize and  
9 direct the Louisiana Department of Health to establish and implement a  
10 comprehensive delivery system for specialized behavioral health services for  
11 children and adults to be administered by a single, statewide managed  
12 behavioral health organization.

13 (2) Utilization of a single, statewide managed behavioral health  
14 organization for delivery of specialized behavioral health services is intended  
15 to increase access to home and community-based services that promote hope,  
16 recovery, and resilience, improve quality of care by establishing, measuring,  
17 and reporting outcomes, and to efficiently manage costs through effective  
18 utilization of state, federal, and local resources.

19 §302. Definitions

20 As used in this Chapter, the following terms shall have the following  
21 meanings:

22 (1) "Department" means the Louisiana Department of Health.

23 (2) "Enrollee" or "recipient" means an individual who is enrolled in the  
24 Medicaid program.

25 (3) "Managed behavioral health organization" or "MBHO" means an  
26 experienced, industry-best organization operating as a prepaid inpatient  
27 healthcare plan procured through a competitive request for proposal process,  
28 which shall administer a comprehensive, statewide system for delivery of  
29 specialty behavioral health services in Louisiana and which shall be accredited

1 either by the National Committee for Quality Assurance (NCQA) or the  
2 Utilization Review Accreditation Commission (URAC).

3 (4) "Primary behavioral health services" means the clinical evaluation  
4 and assessment of mental health and substance use disorder services needed by  
5 an individual and the provision of mental health and substance use disorder  
6 services or referral for additional mental health and substance use disorder  
7 services as determined medically appropriate by a primary care provider.

8 (5) "Specialty behavioral health services" means any mental health and  
9 substance use disorder services defined or authorized by the department other  
10 than primary behavioral health services.

11 §303. Louisiana Department of Health; statewide specialized behavioral health  
12 services delivery system; managed behavioral health  
13 organization; request for proposals; contract; scope

14 A.(1) On or before January 1, 2025, the department shall issue an initial  
15 request for proposals in accordance with applicable law to procure and execute  
16 a contract for implementation of a comprehensive delivery system for  
17 specialized behavioral health services for children and adults to be administered  
18 by a single MBHO.

19 (2) The department shall ensure that a qualified MBHO is selected and  
20 contracted with, pursuant to the request for proposals required by Paragraph  
21 (1) of this Subsection, on or before July 1, 2025.

22 (3) The department and the MBHO selected pursuant to the request for  
23 proposals required by Paragraph (1) of this Subsection shall coordinate and  
24 ensure that the statewide specialized behavioral health services delivery system  
25 required by this Chapter is implemented on or before January 1, 2026.

26 B. This Chapter shall apply only to the specialty behavioral health  
27 services provided to enrollees by or through the MBHO as authorized by the  
28 department.

29 C. The MBHO selected by the department, pursuant to Subsection A of

1 this Section, shall do all the following to maintain participation in the  
2 department's Medicaid Program:

3 (1) Execute a contract with the department and comply with all terms  
4 and conditions of the contract and the underlying request for proposals.

5 (2) Ensure all necessary operational and administrative functions to  
6 provide adequate service coordination and delivery to eligible recipients of  
7 specialty behavioral health services in Louisiana.

8 (3) Manage behavioral health services for eligible adults with substance  
9 abuse disorders in addition to adults with functional behavioral health needs.

10 (4) Manage mental health and substance abuse care for eligible children  
11 in need of specialty behavioral health care on a nonrisk basis.

12 (5) On a nonrisk basis, implement a coordinated system of care for a  
13 subset of children who are in, or at risk of, out-of-home placement.

14 (6) Establish credentialing and re-credentialing policies consistent with  
15 federal and state regulations.

16 (7) Ensure that provider selection policies and procedures do not  
17 discriminate against providers that serve high-risk populations or specialize in  
18 conditions that require costly treatment.

19 (8) Maintain a written contract with subcontractors that specifies the  
20 activities and reporting responsibilities delegated to the subcontractor and such  
21 contract shall also provide for the MBHO's right to revoke said delegation,  
22 terminate the contract, or impose other sanctions if the subcontractor's  
23 performance is inadequate.

24 (9) Contract only with providers of behavioral health services who are  
25 licensed or certified and meet applicable Louisiana credentialing criteria.

26 (10) Ensure that contracted rehabilitation providers are employed by a  
27 rehabilitation agency, school, or clinic that is licensed, certified, or otherwise  
28 authorized by law to provide such services.

29 (11) Contract with a sufficient number of providers to render necessary

1 services to Medicaid enrollees.

2 (12) Ensure that enrollee treatment plans are, or meet, the following  
3 requirements:

4 (a) Developed by the enrollee's primary care provider with the enrollee's  
5 participation and in consultation with any specialists' providing care to the  
6 enrollee except for treatment plans developed for enrollees in the Home and  
7 Community Based Services (HCBS) Waiver. The wraparound agency shall  
8 develop treatment plans for enrollees who receive behavioral health services  
9 through the HCBS Waiver.

10 (b) Approved by the MBHO in a timely manner as required.

11 (c) Conducted in accordance with any applicable state quality assurance  
12 or utilization review standards.

13 (d) Conducted in a manner consistent with the MBHO's contract that  
14 allows for direct access to any specialist for the enrollee's condition or identified  
15 needs.

16 (13) Ensure that Medicaid enrollees receive information in a manner  
17 appropriate to the enrollee's condition or ability to understand, relative to all  
18 the following:

19 (a) Applicable federal regulations, the MBHO contract, and applicable  
20 department requirements.

21 (b) Available treatment options and alternatives provided.

22 (c) Available experimental treatments and clinical trials, including but  
23 not limited to how such research may be accessed even when the department's  
24 Medicaid Program shall not pay for the experimental treatment.

25 D. The failure of the MBHO to comply with the requirements of this  
26 Chapter shall constitute grounds for termination for cause of the contract  
27 executed by and between the department and the MBHO pursuant to the  
28 request for proposal required by this Section.

29 §304. Enrollment; enrollee participation; assessment procedures; mandatory

1                    enrollees; exclusions

2                    A.(1) The MBHO shall comply with all enrollment, disenrollment, and  
3                    beneficiary eligibility policies and procedures defined or authorized by the  
4                    department in accordance with the contract executed by and between the  
5                    department and the MBHO pursuant to the request for proposal required by  
6                    R.S. 28:303.

7                    (2) The MBHO shall ensure that procedures are implemented, which  
8                    incorporate consultation with appropriate health care professionals, to assess  
9                    each Medicaid enrollee identified as having special health care needs and to  
10                   identify any ongoing conditions that require a course of treatment or regular  
11                   care monitoring.

12                   B. The following Medicaid enrollees are mandatory participants who  
13                   shall be automatically enrolled in the statewide specialized behavioral health  
14                   services delivery system and whose disenrollment from the MBHO shall be  
15                   strictly prohibited:

16                   (1) Children eligible under Section 1931 of the Social Security Act,  
17                   poverty-level related groups, and optional groups of older children as  
18                   authorized by the department.

19                   (2) Adults eligible under Section 1931 of the Social Security Act,  
20                   poverty-level pregnant women, and optional groups of caretaker relatives as  
21                   authorized by the department.

22                   (3) Children who are blind or have a disability and related populations  
23                   authorized by the department who are under age eighteen.

24                   (4) Adults who are blind or have a disability and related populations  
25                   authorized by the department who are age eighteen and over.

26                   (5) Aged and related populations who are age sixty-five and older who  
27                   are not blind, do not have a disability, and are not adults eligible under Section  
28                   1931 of the Social Security Act but who are otherwise authorized by the  
29                   department.

1                   **(6) Children who receive foster care or adoption assistance through Title**  
2                   **IV-E or who are in foster care or are otherwise in an out-of-home placement.**

3                   **(7) Title XXI SCHIP (LaCHIP, LaCHIP Phase 2 and LaCHIP Phase 3)**  
4                   **populations.**

5                   **C. Notwithstanding Subsection B of this Section, the following Medicaid**  
6                   **enrollees shall be excluded from enrollment in the MBHO:**

7                   **(1) Enrollees who receive both Medicare and Medicaid benefits.**

8                   **(2) Recipients enrolled in the Medicare Beneficiary Programs (QMB,**  
9                   **SLMB, QDWI and QI-1).**

10                  **(3) Adults who reside in an intermediate care facility for persons with**  
11                  **developmental disabilities (ICF/DD).**

12                  **(4) Recipients of Refugee Cash Assistance.**

13                  **(5) Recipients enrolled in the Regular Medically Needy Program.**

14                  **(6) Recipients enrolled in the Tuberculosis Infected Individual Program.**

15                  **(7) Enrollees who receive emergency services only coverage.**

16                  **(8) Enrollees eligible through the LaCHIP Affordable Care Plan**  
17                  **Program.**

18                  **(9) Enrollees who receive services through the Program of All-Inclusive**  
19                  **Care for the Elderly (PACE).**

20                  **(10) Recipients enrolled in the Low Income Subsidy Program.**

21                  **(11) Participants in the TAKE CHARGE Family Planning Waiver.**

22                  **(12) Recipients enrolled in the LaMOMS Program.**

23                  **§305. Benefits and services; delivery obligations**

24                  **A.(1) The MBHO shall ensure that specialty behavioral health services**  
25                  **are provided to Medicaid enrollees in an amount, duration, and scope that meet**  
26                  **or exceed the requirements of the contract executed by and between the**  
27                  **department and the MBHO pursuant to the request for proposal required by**  
28                  **R.S. 28:303.**

29                  **(2) Notwithstanding Paragraph (1) of this Subsection, the MBHO shall**

1 also ensure that specialty behavioral health services are provided to Medicaid  
2 enrollees in an amount, duration, and scope, which are at least equivalent to  
3 those furnished to enrollees pursuant to the Louisiana Medicaid state plan and  
4 in a manner which can be reasonably expected to achieve the purposes for  
5 which the services are being furnished.

6 B. The MBHO shall be obligated to do the following:

7 (1) Ensure that a required specialty behavioral health service is not  
8 arbitrarily denied or reduced in amount, duration, or scope due to a diagnosis,  
9 type of illness, or condition of the enrollee.

10 (2)(a) Provide medically necessary and appropriate benefits and services  
11 as defined or required by the contract executed by and between the department  
12 and the MBHO pursuant to the request for proposal required by R.S. 28:303.

13 (b) Notwithstanding Subparagraph (a) of this Paragraph, the  
14 department shall promulgate any administrative rules necessary to authorize,  
15 define, or otherwise clarify the benefits and specialty behavioral health services  
16 required to be provided by the MBHO to Medicaid enrollees in accordance with  
17 this Chapter.

18 (3) Ensure in-network access to emergency services and family-oriented  
19 services.

20 (4) Ensure that services rendered to enrollees are provided by mental  
21 health professionals, who are licensed in Louisiana and acting within their  
22 scopes of practice.

23 C. The MBHO may impose appropriate limits on specialty behavioral  
24 health services based on medical necessity or otherwise for the purpose of  
25 utilization control provided that the services furnished can be reasonably  
26 expected to achieve their purposes.

27 §306. Reimbursement methodology

28 A. The department, or its authorized designee, shall make actuarially  
29 sound monthly capitation payments to the MBHO based on prepaid capitation

1 payments or other payment methodologies that do not use fee-for-service  
2 payment rates.

3 B.(1) The MBHO shall be paid on a nonrisk basis for specialty  
4 behavioral health services provided to children, individuals with retroactive  
5 eligibility, and for individuals in the Spend-Down Medically Needy Program.

6 (2) The MBHO shall be paid on a risk basis for specialty behavioral  
7 health services provided to adults.

8 §307. Grievance; appeals procedure

9 A. The MBHO shall be required to have an internal appeal process and  
10 grievance hearing system, which allows a Medicaid enrollee to challenge a  
11 decision made, a denial of coverage, or a denial of payment for services.

12 B.(1) The department shall establish the standards for and the time  
13 limits within which an enrollee, or a provider on behalf of an enrollee, may  
14 appeal and subsequently pursue a grievance hearing pursuant to the contract  
15 executed by and between the department and the MBHO pursuant to the  
16 request for proposal required by R.S. 28:303.

17 (2) The MBHO shall be required to track all appeals and grievances,  
18 including but not limited to their final outcomes, and make quarterly reports  
19 regarding all appeals and grievances to the department in a manner determined  
20 by the department. The quarterly reports required by this Paragraph shall be  
21 public records.

22 §308. Monitoring; reporting

23 A. The MBHO shall maintain its accreditation from either the National  
24 Committee for Quality Assurance (NCQA) or the Utilization Review  
25 Accreditation Commission (URAC) through the life of the contract executed by  
26 and between the department and the MBHO pursuant to the request for  
27 proposal required by R.S. 28:303.

28 B.(1) The MBHO shall report demographic data, outcome measure,  
29 utilization, and special needs populations data to the department in a manner



Proposed law requires the Louisiana Department of Health to issue a competitive request for proposals process for selection of and contracting with a managed behavioral health organization.

Proposed law provides for statewide management organization participation and network obligations.

Proposed law provides for enrollment procedures, certain mandatory participant enrollment and exclusions, enrollee rights and obligations, and benefits and services delivery requirements.

Proposed law establishes reimbursement methodology and procedures and appeal and grievance procedures.

Proposed law provides for mandatory reporting for the MBHO.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 28:301-308)