

Regular Session, 2008

HOUSE BILL NO. 1385 (Substitute for House Bill No. 875 by Representative Jackson)

BY REPRESENTATIVES MICHAEL JACKSON AND ABRAMSON

VETOED
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Veto Message

AN ACT

To enact Part II of Chapter 58 of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:2745 through 2749, relative to reimbursement for mental health services; to create the Mental Health Access Committee; to provide for the membership, functions, and duties of the committee; to provide for the study of a revised reimbursement methodology and standards of participation for community mental health clinics; to provide for the promulgation of rules and regulations; to provide for Medicare-certified community mental health centers and community mental health clinics; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part II of Chapter 58 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:2745 through 2749, is hereby enacted to read as follows:

PART II. REIMBURSEMENT FOR MEDICARE-CERTIFIED COMMUNITY
MENTAL HEALTH CENTERS AND COMMUNITY MENTAL HEALTH CLINICS

§2745. Mental Health Access Committee; creation; purpose

The Mental Health Access Committee, hereinafter referred to in this Part as the "committee", is hereby created within the Department of Health and Hospitals. The committee shall make recommendations specific to a revised reimbursement methodology for community mental health clinics reimbursed through the Department of Health and Hospitals, office of mental health, and the Medicaid program, study the certification and licensing criteria of Medicare-certified community mental health centers to be enrolled as community mental health clinics, and develop a needs assessment for the expansion of mental health services in the state beyond what is currently provided by community mental health clinics.

1 §2746. Membership of the committee; compensation; meeting; voting; report

2 A. The following individuals shall serve on the committee:

3 (1) The chair of the Senate Committee on Health and Welfare or his
4 designee.

5 (2) The chair of the House Committee on Health and Welfare or his
6 designee.

7 (3) The secretary of the Department of Health and Hospitals or his designee.

8 (4) The assistant secretary of the office of mental health, Department of
9 Health and Hospitals, or his designee.

10 (5) The director of the Medicaid program of the Department of Health and
11 Hospitals or his designee.

12 (6) The director of the health standards section of the Department of Health
13 and Hospitals or his designee.

14 (7) The president of the National Alliance on Mental Illness or his designee.

15 (8) The president of the National Association for Behavioral Health or his
16 designee.

17 (9) The president of the National Association of Social Workers or his
18 designee.

19 (10) The president of the Louisiana Counseling Association or his designee.

20 (11) The president of the Louisiana Association for Behavioral Health or his
21 designee.

22 (12) The director of Mental Health America of Louisiana or his designee.

23 B. The secretary of the Department of Health and Hospitals or his designee
24 shall serve as chairman of the committee.

25 C. Members of the committee shall serve without compensation. Travel, per
26 diem, and other expenses may be paid by the member's respective employer or
27 affiliated agency.

28 D. The committee shall conduct its initial meeting no later than August 1,
29 2008.

1 E. A majority of the total membership shall constitute a quorum of the
2 committee, and any official action taken by the committee shall require an
3 affirmative vote of a majority of the quorum present and voting.

4 F. The committee shall meet as necessary, and the chairman of the
5 committee shall report the findings of the committee and the recommendations of the
6 chairman to the House Committee on Health and Welfare and the Senate Committee
7 on Health and Welfare no later than April 1, 2009. Implementation of the
8 recommendations of the chairman of the committee shall be contingent upon
9 approval from the Centers for Medicare and Medicaid Services.

10 §2747. Duties of the committee

11 At a minimum, the committee shall consider the following:

12 (1) A needs assessment for the expansion of mental health services in the
13 state.

14 (2) The operation of community mental health clinics under an
15 Administrative Service Organization.

16 (3) The reimbursement methodology considering cost-based, fee for service,
17 or other reimbursement methodology for community mental health clinics.

18 (4) Provider qualifications and criteria for enrollment.

19 (5) The continuum of behavioral health services and how the enrollment of
20 Medicare-certified community mental health centers as community mental health
21 clinics may seek to address current service gaps.

22 (6) Definitions of covered services.

23 (7) Outcome survey methodology.

24 (8) Freedom of choice in accordance with federal regulations.

25 (9) Any other matters the committee deems necessary for consideration
26 relative to reimbursement for community mental health clinics and Medicare-
27 certified community mental health centers.

28 §2748. Revised reimbursement; rules and regulations

29 It is the intent of the legislature that the Department of Health and Hospitals
30 promulgate rules and regulations in accordance with the Administrative Procedure

1 Act, including emergency rules, to provide for a revised reimbursement system and
2 standards of participation for community mental health clinics no later than October
3 20, 2009, contingent upon funding and approval from the Centers for Medicare and
4 Medicaid Services.

5 §2749. Medicare-certified community mental health centers and community mental
6 health clinics

7 The following shall apply for Medicare-certified community mental health
8 centers and community mental health clinics:

9 (1) For Medicare-certified community mental health centers, enrollment in
10 the Medicaid program may begin by July 1, 2008, for payment of crossover claims
11 from Medicare for dual eligibles.

12 (2) Upon the declaration of a disaster or emergency by the governor or the
13 president of the United States, the Department of Health and Hospitals, office of
14 mental health, may contract with Medicare-certified community mental health
15 centers for the provision of services in accordance with the state emergency
16 operations plan pursuant to R.S. 29:726.

17 (3) Medicare-certified community mental health centers and community
18 mental health clinics shall practice freedom of choice in accordance with federal
19 regulations.

20 (4) Notwithstanding any provision of this Part to the contrary, the Department
21 of Health and Hospitals shall not enroll any new community mental health clinics
22 until final rules and regulations are adopted in accordance with the Administrative
23 Procedure Act pursuant to this Part.

24 Section 2. The Louisiana State Law Institute is hereby directed to place the
25 provisions of R.S. 46:2741 through 2744 in their entirety within Part I of Chapter 58 of Title
26 46 of the Louisiana Revised Statutes of 1950 and to designate Chapter 58 as
27 "Reimbursement Methodology" and Part I as "Reimbursement Methodology for Nursing
28 Homes".

1 Section 3. This Act shall become effective on July 1, 2008; if vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on July 1,
3 2008, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

VETO MESSAGE

House Bill No. 1385 mandates the creation of the Mental Health Advisory Committee and charges the committee with, among other things, developing recommendations related to a revised reimbursement methodology for community mental health clinics and studying the certification and licensing criteria of Medicare-certified community mental health centers to be enrolled in Medicaid as community mental health clinics. While I agree with the benefit of multi-disciplinary input to the Medicaid program, I do not believe an advisory committee for such a narrow purpose, and without any expiration, should be placed in statute, particularly as it potentially relates to a Medicaid rate issue. Narrowly tailored rate issues should be addressed through the rule making process established in law, which provides for appropriate oversight by the Legislature. This established process allows the Department of Health and Hospitals to evaluate the impact of that particular issue on the larger delivery system, and I believe this comprehensive approach is critical to the successful operation of the Medicaid program.

For this reason, I have vetoed HB 1385, and hereby return it to the House of Representatives. I have issued Executive Order No. BJ 2008-24, which will serve to carry out this bill's intent.