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Joint Committee on Finance

Paper #447

Psychiatric Residential Treatment Facility Certification and Grant Program (Health Services -- Behavioral Health)

[LFB 2023-25 Budget Summary: Page 282, #3]

CURRENT LAW

Federal regulations define a psychiatric residential treatment facility (PRTF), as a non-hospital, inpatient facility for the treatment of individuals under the age of 21. PRTFs provide inpatient psychiatric treatment in a less restrictive environment than a psychiatric hospital or a psychiatric unit within a general hospital, but provide more intensive treatment than available in other settings, including residential care centers (RCCs) for youth, outpatient therapy, or through day treatment.

The state's Medical Assistance (MA) program provides coverage for inpatient psychiatric care for children and youth under the age of 21 in psychiatric hospitals or psychiatric units of general hospitals. There are no PRTFs in Wisconsin and the PRTF is not a recognized facility type in the state.

DISCUSSION POINTS

1. A PRTF is a stand-alone inpatient facility, offering intensive treatment in a secure setting. PRTFs typically treat children and youth diagnosed with severe psychiatric conditions, such as bipolar disorder, disruptive behavior disorders, substance use disorders, severe emotional disturbance, or post-traumatic stress disorder. Many face difficulty functioning in home and school settings and may pose a risk themselves or others.

2. PRTF services are provided at the direction of a physician in accordance with a plan of care designed to achieve a discharge from inpatient status at the earliest possible time. However, federal regulations do not place a specific limit on the length of time a person may be in a PRTF. DHS

indicates that the average length of stay for Wisconsin youth placed in a PRTFs in other states is 255 days. In other states with PRTFs that DHS has surveyed, the average length of stay ranged from three months to one year.

3. According to a data collected by the Department of Children and Families for out-of-home placements, there was a daily average of 23 Wisconsin youth placed in PRTFs in other states during the period between 2017 and 2021.

4. Federal regulations allow PRTFs to use physical restraints and seclusion in emergency safety situations, but these facilities may not employ such measures for the purpose of coercion, discipline, convenience, or retaliation.

5. AB 43/SB 70 includes provisions that would: (a) establish the licensing and regulatory framework for psychiatric residential treatment facilities in Wisconsin; (b) specify that PRTF services are an eligible service under the Medical Assistance program; and (c) provide grant funding of \$1,790,000 in 2024-25 to support the establishment of one such facility. A summary of the statutory provisions included in AB 43/SB 70 is presented in the appendix for this paper.

6. DHS maintains that having a PRTF in Wisconsin would fill a gap in the spectrum of psychiatric services available for youth with complex mental health, substance use, or behavioral needs. Some youth have needs that cannot be met with community-based psychiatric treatment, such as outpatient therapy, but who also do not need the high level of clinical supervision and controlled environment provided in an inpatient hospital setting.

7. This service gap may apply to youth in various living circumstances, but the Administration's proposal is focused, in particular, on the service needs of youth who are in out-of-home care, as part of the child welfare system or a juvenile justice order. Most children and youth in out-of-home care live in foster care or kinship care situations, but at any point in time between about 500 to 600 children or youth are placed in a congregate setting, such as a group home, hospital, or residential care center (RCC).

8. A residential care center provides treatment and custodial services to children and youth in a secure facility. While RCCs are staffed to provide behavioral treatment, they are generally not equipped for youth with intensive psychiatric treatment needs, and the RCC can decline the placement of a youth whose needs it cannot meet.

9. In cases where a youth with complex care needs cannot be placed in a community-based congregate setting, a psychiatric inpatient placement may be necessary. Currently for Wisconsin youth, there are two options for this placement. The first is admission to a psychiatric hospital, including the youth services unit at Winnebago Mental Health Institute, or a psychiatric unit in a general hospital. The second option is placement in a psychiatric residential treatment facility. However, since there are currently no such facilities in Wisconsin, these youth are served by PRTFs in other states.

10. Several states in the Great Lakes or Midwest region have PRTFs or have at least established a licensing framework for PRTFs in the last several years, including Indiana, Iowa,

Minnesota, Michigan, Missouri, Nebraska, and Ohio. However, not all out-of-state PRTFs would necessarily accept or be an appropriate placement for Wisconsin youth.

11. Federal regulations specify the minimum staffing requirements for a PRTF, which includes a psychiatrist, clinical psychologist with doctoral degree, or a physician with specialized training in the training of mental diseases. The PRTF treatment team must also include at least one of the following: (a) a psychiatric social worker; (b) a registered nurse with experience in treating mentally ill individuals; (c) an occupational therapist with specialized training or experience with treating mentally ill individuals; or (d) a psychologist with a master's degree in clinical psychology. PRTFs have other staff for non-clinical functions, such as food service, custodial, education, and family engagement.

12. DHS notes that one reason for establishing a PRTF in Wisconsin is a recent change to federal child welfare law that limits eligibility for placements in congregate care settings for federal Title IV-E funds. Under the Families First Prevention Services Act of 2018, only the first two weeks of a placement in a residential care center is eligible for federal assistance. While a PRTF placement is also not an eligible expense for Title IV-E funds, it is eligible for federal financial participation under Medicaid, which uses the same federal matching rate as the Title IV-E funds. Consequently, establishing a PRTF would allow the state to continue to receive federal matching funds for certain out-of-home care settings, although from a different federal source.

13. In addition to establishing a licensing framework for a PRTF in Wisconsin, AB 43/SB 70 would make PRTF services eligible for reimbursement under MA. DHS indicates that the MA reimbursement rate for PRTF services would be established to cover eligible costs for Medicaid-eligible youth. Since these youth would most likely otherwise be receiving inpatient psychiatric services in other settings, it is assumed that there would not be a significant change in MA costs. As a lower level of clinical care than an inpatient hospital, it is possible that PRTF service would be a less costly alternative. However, there are other factors at play that could affect the eventual effect on MA costs, including differences in reimbursement methodology, and the length of stay. In any case, any differences in MA costs as the result of establishing PRTF services in Wisconsin are likely to be small in relation to the overall budget for the program.

14. Although it is expected that a PRTF costs would be mostly supported with MA reimbursement or other insurance billing, AB 43/SB 70 would also establish a grant program to support a portion of the cost. For the purposes of the budget proposal, the Department developed an estimate of the total operating cost of a 25-bed PRTF, using assumptions for staffing and other costs including medical services, and assumed that 20% of this cost would need to be supported with grant funding, rather than through MA. The bill would provide this amount, estimated at \$1,790,000 GPR, beginning in 2024-25, which would allow the Department to begin supporting a facility that is operational in the second year of the biennium.

15. The Department cites several reasons for establishing a grant program to support a portion of the cost of a PRTF. First, although it is expected that Medicaid or private insurance will support most of the cost of the facility, some patients will have no insurance that can be billed for the PRTF services. The grant funding would allow the facility to cover these costs for uninsured youth. Second, in order to have a facility with sufficient capacity to provide services during periods of high

need, it will be necessary to support the staffing and other operational costs during periods when it is not fully utilized. The grant would help to ensure that the facility operator can support its costs even if not all beds are in use. Third, having a grant to support a portion of the cost would allow the Department to enter into a contract with the operator that imposes certain conditions to ensure that the state's objectives are being met. This could include, for instance, conditions that restrict the facility's ability to refuse admission to patients. Finally, another purpose of grant funding would be to support the start-up costs of the facility. This includes costs incurred during the period of employee recruitment and training when the facility would have few, if any, billable patients.

16. The PRTF provisions included AB 43/SB 70 would authorize the Department to establish licensing requirements by administrative rule. The Department indicates that in addition to working with potential providers on the parameters for these facilities, Department staff would work with the federal Centers for Medicare and Medicaid Services to ensure that the state rules are in compliance with federal Medicaid requirements. In addition, the Department indicates that staff may issue a request for information notice to gauge potential interest among providers and gather more input on funding issues. In part, this process may inform the Department whether the amount of the proposed grant funding is at an appropriate and/or sufficient level to entice providers to establish a facility in Wisconsin.

17. The Department indicates that the process of developing rules for licensing PRTFs, specifying policies for Medicaid reimbursement, and securing a provider to receive the grant may not be completed until late in the biennium or possibly until next biennium. By comparison, similar provisions for the establishment of a youth crisis stabilization facility were created in the 2017-19 biennial budget, but the first grants to support these facilities were not made until 2019-20, in the following biennium.

18. In considering the PRFT proposal, the Committee can make separate decisions on the statutory provisions related to licensing and Medicaid eligibility and on the funding for making a grant to a PRTF. If the Committee determines that both parts of the proposal are warranted, it could approve the statutory language and grant funding as included in AB 43/SB 70. [Alternatives A1 and B1].

19. The Committee could approve the statutory provisions related to licensing of PRTF and Medicaid eligibility, but make a different decision on funding for grants. Given the level of uncertainty regarding the timing and amount of funding needed to support a PRTF, the Committee could place the proposed funding in the Committee's program supplements appropriation. This would reserve the funding until a time when the Department has more information regarding the level of interest by providers in establishing a PRTF. The Department could then submit a request under s. 13.101 of the statutes for the release of the funding. [Alternative B2]

20. Alternatively, the Committee could adopt the statutory provisions under Alternative A1, but not provide funding for grants. The issue of supplemental funding needed to support the start-up and ongoing costs of a PRTF could be considered in a future budget. [Alternative B3]

ALTERNATIVES

A. Statutory Provisions for Establishing a Psychiatric Residential Treatment Facility

1. Adopt the provisions included in AB 43/SB 70 that establish a regulatory framework and certification requirement for PRTFs and that specify that PRTF services are an eligible service under the Medical Assistance program, as summarized in the Appendix.
2. Take no action.

B. Psychiatric Residential Treatment Facility Grant Funding

1. Adopt provisions included in AB 43/SB 70 that provide \$1,790,000 GPR in 2024-25 in the Department's grants for community programs appropriation and that authorize DHS to distribute not more than that amount annually to support psychiatric residential treatment facilities.

ALT B1	Change to Base
GPR	\$1,790,000

2. Authorize DHS distribute not more than \$1,790,000 from the grants to community programs appropriation to support psychiatric residential treatment facilities, but provide this funding in 2024-25 in the Committee's program supplements appropriation.

ALT B2	Change to Base
GPR	\$1,790,000

3. Take no action.

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Appendix

APPENDIX

Establishing a Psychiatric Residential Treatment Facility Summary of AB 43/SB 70 Provisions

Define a psychiatric residential treatment facility (PRTF) as a non-hospital facility that provides inpatient comprehensive mental health treatment services to individuals under the age of 21 who, due to mental illness, substance use, or severe emotional disturbance, need treatment that can most effectively be provided in a residential treatment facility. Specify that no person may operate a PRTF without a certification from the Department. Specify that a PRTF that is certified by the Department is not subject to facility regulations currently applicable to children's facilities licensed by the Department of Children and Families, such as foster homes, group homes, and child care centers. Specify that the Department may limit the number of certifications it grants to operate a PRTF.

Specify that services provided by a PRTF that is certified by the Department are eligible for reimbursement under the Medical Assistance program. Require DHS to submit to the federal Department of Health and Human Services any request for a state plan amendment, waiver, or other federal approval necessary to provide reimbursement under the program. Require DHS to provide reimbursement for such services if federal approval is granted or if no federal approval is required. Specify that if federal approval is not granted, the Department may not provide reimbursement for services provided by PRTFs.

Authorize the Department to promulgate rules to implement provisions related to PRTFs. Authorize the Department to promulgate an emergency rule implementing these provisions, including the development of a new provider type and a reimbursement model for PRTFs under MA, without meeting prerequisites that otherwise apply to emergency rulemaking authority. Specify that any such emergency rules would remain in effect until July 1, 2025, or the date that permanent rules take effect, whichever is sooner.

