



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5163 (Substitute H-1 as passed by the House)
Sponsor: Representative Angela Witwer
House Committee: Health Policy
Senate Committee: Health Policy and Human Services

Date Completed: 6-9-22

CONTENT

The bill would amend the Public Health Code to do the following:

- **Require a hospital that treated 50 or more patients per year in its emergency department for opioid-related overdose to implement an emergency-based medication-assisted treatment (MAT) program.**
- **Require the Department of Health and Human Services (DHHS) to develop and implement a grant program to provide grant-based financial support to hospitals for the purpose of offering MAT programs, subject to available funding.**
- **Require a hospital to agree to comply with certain requirements as a condition of receiving grant funds.**

Under the bill, except as otherwise provided, a hospital that treated 50 or more emergency patients per year in its emergency department for an opioid-related overdose would have to implement an emergency-based MAT program. If the DHHS considered it appropriate, it could, by rule, require a hospital that treated fewer than 50 emergency patients per year in its emergency department for an opioid-related overdose to implement an emergency-based MAT program. "Emergency department" would mean an organized emergency department located in and operated by a hospital. "Emergency-based medication-assisted treatment program" or "MAT program" would mean a program offering opioid agonist treatments and opioid antagonists within an emergency department.

A hospital that was required to implement a MAT program could opt out of doing so by completing a form developed by the DHHS.

Subject to available funding, the DHHS would have to develop and implement a grant program to provide grant-based financial support to hospitals for the purpose of offering MAT programs. The Department would have to begin operating the program beginning 90 days after the bill's effective date and would have to cease operating the program on September 30, 2022, unless Federal funds or other money appropriated to the DHHS remained available to provide grants for the bill's purposes. The Department could contract with a nongovernmental entity that it considered appropriate to administer the grant program.

As a condition of receiving grant funds from the grant program, a hospital would have to agree to comply with all of the following in spending the grant funds:

- Maintain, as part of the hospital's emergency services, protocols on and the capacity to provide appropriate, evidence-based interventions for a patient being treated for an

opioid-related overdose or opioid use disorder to reduce the risk of subsequent harm to or the death of the patient following his or her discharge from the hospital.

- Maintain protocols on possessing, dispensing, administering, and prescribing opioid agonist treatment and maintain personnel who had the capacity to possess, dispense, administer, and prescribe opioid agonist treatment.
- If opioid agonist treatment were recommended by a treating health professional who was treating a patient presented in the emergency department for care and treatment of an opioid-related overdose or opioid use disorder, ensure that opioid agonist treatment was offered to the patient and provided to the patient if the patient consented.
- Maintain protocols on possessing, dispensing, administering, and prescribing opioid antagonists and maintain personnel who had the capacity to possess, dispense, administer, and prescribe opioid antagonists.
- If an opioid antagonist were recommended by a treating health professional who was treating a patient presented in the emergency department for care and treatment of an opioid-related overdose or opioid use disorder, ensure that an opioid antagonist was prescribed for or dispensed to the patient if the patient consented.
- Demonstrate compliance with applicable training and waiver requirements established by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services and the Drug Enforcement Administration of the United States Department of Justice on prescribing opioid agonist treatment.
- Before discharging an emergency patient who was administered or prescribed an opioid agonist treatment in the emergency department, refer the patient to a person who provided substance use disorder (SUD) services.

To the extent possible, a referral would have to ensure that the transition of care by the treating health professional in the hospital was accomplished by face-to-face or direct telephone contact between the emergency patient and the provider of the SUD services.

"Opioid use disorder" would mean a substance use disorder as that term is defined in the Mental Health Code that involves the use of opioids: the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

"Opioid agonist treatment" would mean methadone, buprenorphine, or any other similarly acting and equally safe agonist or partial agonist drug approved by the FDA as a treatment for opioid use disorder.

"Treating health professional" would mean an individual who is licensed, registered, or otherwise authorized to engage in a health profession under Article 15 (Occupations) of the Code and who is authorized to treat an emergency patient in an emergency.

Proposed MCL 333.21528

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

The bill would have an indeterminate negative fiscal impact on the DHHS and on local units of government. The magnitude of the cost would depend partially on the level of appropriation made to support the grant program to provide financial support to hospitals to offer MAT programs. In 2020, 70 hospitals fell into the category of treating greater than 50 opioid-related overdoses in the previous year. A pilot program administered by the Michigan Opioid Partnership indicated that, for hospitals treating 50 to 100 opioid-related overdoses annually, a grant of \$100,000 was necessary to implement a MAT program, while for hospitals that

treated over 100 opioid-related overdoses annually, a \$200,000 startup grant was necessary. The Department indicates a necessary funding level of \$8.3 million with an assumed 70% participation rate among eligible hospitals. The number of hospitals implementing MAT programs under the bill would depend on the Department's decision whether to require hospitals that treated fewer than 50 emergency opioid-related overdoses to implement MAT programs, as well as the number of hospitals that opted out. The Department indicates that, in fiscal year (FY) 2021-22, it has allocated approximately \$7.1 million for this grant program. The Department would incur minor administrative costs to create the program opt-out form.

Currently, Medicaid reimburses for one dose of medication when a beneficiary presents in an emergency department with an opioid-related overdose. Although the bill could result in a shift in which overdose medication was used, it likely would not increase the number of total doses used, resulting in no fiscal impact.

Substance use disorder treatment, including MAT, is covered under the State's Medicaid program for Medicaid beneficiaries. To the extent that the bill would increase referrals to, and use of, SUD treatment services by Medicaid beneficiaries, the State would face increased costs. The FY 2021-22 DHHS budget includes \$83.1 million for costs related to Medicaid-covered SUD services. In the long term, an increase in referrals to SUD treatment services could result in a reduction in covered visits to hospitals for treatment of the effects of a drug overdose, as well as improved overall health. These outcomes would result in the State's seeing a reduction in Medicaid costs that could partially offset the costs related to increased service usage.

Costs incurred by the Department as a result of the bill could be supported by Federal funding in the current DHHS budget as well as Federal funding made available by the various stimulus bills enacted over the past calendar year to address the impact of the COVID-19 pandemic. The enacted FY 2021-22 budget included \$56.2 million of funds received through the Substance Abuse Prevention and Treatment Block Grant. Additionally, the Consolidated Appropriations Act (PL 116-260) allocated \$52.5 million of Substance Abuse Prevention and Treatment Block Grant funding, while the American Rescue Plan Act allocated \$46.8 million in additional funding.

Fiscal Analyst: Ellyn Ackerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.