

Legislative Analysis



CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5371 (H-3) as referred from subcommittee
Sponsor: Rep. Felicia Brabec

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5372 (H-1) as referred from subcommittee
Sponsor: Rep. Phil Green

Committee: Health Policy
Complete to 11-12-24

SUMMARY:

The bills would add provisions to the Social Welfare Act related to *certified community behavioral health clinics* (CCBHCs). Neither bill can take effect unless both bills are enacted.

Certified community behavioral health clinic would mean an entity that has been certified by the Department of Health and Human Services (DHHS) in accordance with federal criteria and the federal Protecting Access to Medicare Act of 2014, Public Law 113-93,¹ or an appropriate change or waiver to the Medicaid state plan.

House Bill 5371 would require DHHS to develop, in accordance with federal law and regulations, a *prospective payment system* under the medical assistance program for funding all of the following:

- A CCBHC.
- A community mental health service program (CMHSP), nonprofit organization, or private organization that provides mental health services that is certified by DHHS as a CCBHC, is licensed by DHHS, and adheres to all federal CCBHC requirements.
- A mental health provider who is certified by DHHS as a CCBHC and who adheres to all federal CCBHC requirements.

Prospective payment system would mean a payment methodology that funds, in advance, a CCBHC for the anticipated costs of carrying out the direct and indirect clinical and administrative activities required of CCBHCs.

The payment system would have to fully comply with all federal payment methodologies. DHHS would have to apply for any necessary waivers and approvals from the federal Centers for Medicare and Medicaid Services. The system would have to be implemented (subject to approval) before October 1, 2027.

DHHS would have to develop and issue rules to implement the bill, including at least rules that do the following:

- Ensure continuing compliance with DHHS licensing and certification requirements.

¹ <https://www.govinfo.gov/content/pkg/PLAW-113publ93/pdf/PLAW-113publ93.pdf>

- Prohibit retaliation against a mental health provider described above by a CMHSP described above and establish procedures for investigating and adjudicating claims of retaliation.
- Clearly define retaliatory actions and ensure fair enforcement as described below.
- Ensure equal payment to applicable persons under the prospective payment system developed as described above.
- Outline the process for dispute resolution, including at least the appointment of an independent adjudicator, timeline for filing of disputes, and standards for selecting and compensating an independent adjudicator.

DHHS also would have to establish and enforce penalties for a violation of the rules, including at least imposition of fines, suspension of contracts, or loss of certification as a CCBHC.

Proposed MCL 400.109o

House Bill 5372 would do all of the following:

- Prohibit the state government from implementing a policy that contradicts or interferes with the implementation of federal definitions or requirements for a CCBHC.
- Require the state government to develop a process of determination for additional CCBHC sites in specific geographic regions that must comply with federal CCBHC requirements, to address service area overlap.
- Require the state government to continue to participate with the federal government to implement CCBHCs. The bill states, “To opt out of participation, there must be a vote of the legislature.”

Proposed MCL 400.109p

BACKGROUND:

As described by the Congressional Research Service:²

CCBHCs are community-based outpatient facilities operated by nonprofit, governmental, or tribal entities that offer a comprehensive range of behavioral health services. Federal criteria related to access and quality of mental health care are used to certify outpatient behavioral health clinics that meet these standards. The criteria require CCBHCs to provide specified services, such as risk assessment, outpatient mental health and substance use treatment, case management, psychiatric rehabilitation services, peer and family supports, 24-hour crisis management, primary care screening, and care coordination (among others), on site or through partnerships with other health and social service providers. CCBHCs must provide services to individuals with mental health and substance use disorders seeking care regardless of ability to pay or place of

² <https://crsreports.congress.gov/product/pdf/IF/IF12494>

From the Council of State Governments: <https://csgjusticecenter.org/wp-content/uploads/2023/06/Certified-Community-Behavioral-Health-Clinics-Can-Address-Mental-Health-and-Substance-Use-Needs-Across-the-Criminal-Justice-System-Intercepts-1.pdf>

From the National Center for State Courts: https://www.ncsc.org/_data/assets/pdf_file/0019/71380/CCBHCs.pdf
 Michigan’s demonstration program: <https://www.michigan.gov/mdhhs/keep-mi-healthy/mentalhealth/ccbhc>

residence. CCBHCs can serve patients covered by Medicare, Medicaid, and private health insurance, as well as those who are uninsured. CCBHCs may receive state funds or funding from other federal discretionary grant programs.

FISCAL IMPACT:

The state is currently participating in a federal demonstration program to provide Medicaid reimbursements for enrolled CCBHC sites through September 30, 2027. The FY 2024-25 DHHS appropriations for supplemental CCBHC costs total \$525.9 million Gross (\$128.4 million GF/GP), which, according to DHHS, will support 33 CCBHCs located in 30 counties and an additional three locations within those 30 counties starting January 1, 2025.

Since FY 2021-22, the program has expanded based on available appropriations. House Bill 5371 would instead allow DHHS to expand the number of CCBHC sites if DHHS decides to certify mental health organizations and providers as CCBHCs if the mental health organizations and providers adheres to all federal CCBHC requirements. It is unknown how many additional CCBHC sites would enroll, but each additional CCBHC costs, on average, approximately \$14.5 million Gross (\$3.5 million GF/GP).

Additionally, once the current federal demonstration program ends, states can decide to continue the CCBHC program, but at a lower federal reimbursement rate. Under House Bill 5372, that continued participation would be required. The lower federal reimbursement rate, based on the FY 2024-25 FMAP rates, would cost the state approximately \$90.0 million annually.

A number of CCBHCs are community mental health services programs (CMHSPs), so a local CMHSP could receive additional Medicaid reimbursements for providing CCBHC services.

Legislative Analyst: Rick Yuille
Fiscal Analyst: Kevin Koorstra

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.