

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: 1/20/22

To: Joint Standing Committee on Health & Human Services

From: Samuel Senft, Esq., MPH, Legislative Analyst

LD 1080 Resolve, Directing the Department of Health and Human Services To Update the Rights of Recipients of Mental Health Services

SUMMARY: This resolve directs the Department of Health and Human Services to update the rights of recipients of mental health services regarding treatment, the delivery structure and the entities that oversee the safe and effective delivery of mental health services, including to align the rights with contractual agreements with service providers, current federal and state privacy laws and best practices for the delivery of clinically appropriate assessment and treatment models for persons with mental illness.

The public hearing for this bill took place on April 7, 2021. On May 20, 2021, the HHS Committee voted to carry over the bill to the second session.

ISSUES FROM TESTIMONY:

- It was noted that the Adult Rights of Recipients rules was last updated in 1995. The Children's Rights of Recipients rules were last updated in 2000.
- Concern was raised that the [AMHI Consent Decree](#) may conflict with certain aspects of the bill. It was noted that the Consent Decree requires that DRM and the court master review revisions to the Rights of Recipients,

but that the bill does not reference this requirement. It was also suggested that the bill language requiring the Rules to align with contractual agreements was problematic in that the contracts should be aligned to meet the needs of members, rather than the converse.

- A number of commenters recommended additional stakeholder involvement in considering changes to the rules.

DRAFTING ISSUES:

- The bill directs DHHS to update the Rights of Recipients rules by January 1, 2022. Given that this date has passed, the bill would need to be amended to reflect a future deadline, with sufficient time for rulemaking.

BACKGROUND INFORMATION:

- [Current statute](#) (34-B MRSA §3003)
- [Rules: Rights of Recipients of Medical Health Services](#) (Adult) (14-192, c.1)
- [Rules: Rights of Recipients of Mental Health Services who are Children in Need of Treatment](#) (14-472, c. 1)
- [February 4, 2021 AMHI Consent Degree Report from Judge Walthen](#)

FISCAL IMPACT: The [preliminary fiscal impact statement](#) indicates a minor cost increase out of the General Fund.