WEST VIRGINIA CODE: §9-5-29

§9-5-29. Payments to substance use disorder residential treatment facilities based upon performance-based outcomes.

(a) For purposes of this section:

(1) "Department" means the Department of Human Services.

(2) "Evidence-based" means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended populations.

(3) "MCOs" means Medicaid managed care organizations.

(4) "Performance-based contracting" means structuring all aspects of the service contract around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(5) "Promising practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(6) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(b) Within three months of effective date, Bureau for Medical Services shall seek an amendment to an existing waiver or waivers from the Centers for Medicare and Medicaid Services to support the pilot program. Within 90 days of Centers for Medicare and Medicaid Services approval, Bureau for Medical Services shall enter into contracts with the MCOs wherein, at a minimum, 15 percent of substance use disorder residential treatment contracts for facilities providing substance use disorder treatment services are paid based upon performance-based measures.

(c) The department’s contracts with the MCOs shall be developed and implemented in a manner that complies with the applicable provisions of this code and are exempt from §5A-3-1 *et seq*. of this code.

(d) The MCOs shall contract with substance use disorder residential treatment facilities and allow substance use disorder treatment facilities the option to be paid based upon performance-based metrics. Substance use disorder residential treatment facilities that opt for performance-based contracting shall including the following:

(1) The use of programs that are evidence-based, research-based, and supported by promising practices, in providing services to patient population, including fidelity and quality

assurance provisions.

(2) The substance use disorder residential treatment facility shall develop a robust post-treatment planning program, including, but not limited to, connecting the patient population to community-based supports, otherwise known as wraparound services, to include, but not be limited to, designation of a patient navigator to assist each discharged patient with linkage to medical, substance use, and psychological treatment services; assistance with job placement; weekly communication regarding status for up to three years; and assistance with housing and transportation.

(3) The department shall create an advisory committee that includes representatives from the Office of Drug Control Policy, the Bureau for Behavioral Health, the Bureau for Medical Services, and the MCO to develop the performance-based metrics for which payment is based that shall include, but are not limited to, the following:

(A) Whether patient is drug free, 30 days post discharge, six months post discharge, one-year post-discharge, two years post-discharge, and three years post-discharge;

(B) Whether patient is employed, 30 days post discharge, six months post discharge, one-year post-discharge, two years post-discharge, and three years post-discharge;

(C) Whether patient has housing, 30 days post discharge, six months post discharge, and one-year post-discharge;

(D) Whether substance use disorder residential treatment facility has arranged medical, substance use, psychological services, or other community-based supports for the patient and whether the patient attended, 30 days post discharge, six months post discharge, one-year post-discharge, two years post-discharge, and three years post-discharge;

(E) Whether the patient has transportation 30 days post-discharge; and

(F) Whether patient has relapsed and needed any additional substance use disorder treatment, 30 days post discharge, six months post discharge, one-year post-discharge, two years post-discharge, and three years post discharge.

(G) A managed care organization does not have an obligation to provide any of the information specified in this section regarding a patient if that patient ceases to be an enrolled member of that particular MCO.

(e) The substance use disorder residential treatment facility shall report the performance-based metrics to the Office of Drug Control Policy on the first of every month.

(f) For the three years of implementation of performance-based contracting, the MCO may transfer risk for the provision of services to the substance use disorder residential treatment facility only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the MCO may develop a

shared saving methodology through which the substance use disorder residential treatment facility shall receive a defined share of any savings that result from improved performance.

(g) The department shall hire a full-time employee who will actively monitor the substance use disorder residential treatment facility's compliance with required reporting, monitor contracts executed under this section, and support the advisory committee in determining the best practices and refinement of this pilot.

(h) The advisory committee shall evaluate this pilot program annually for effectiveness, adjust metrics as indicated to improve quality outcomes, and assess the pilot for continuation.

(i) The pilot program shall terminate in three years, unless it is recommended for continued evaluation based upon metrics that indicate the effectiveness of this program.

(j) The department shall conduct actuarial analysis of the pilot program annually and submit this report together with a detailed report of the overall performance of the pilot program, including but not limited to, any performance-based metrics added in the fiscal year, and a recommendation regarding the effectiveness of the program to the Legislative Oversight Commission on Health and Human Resources Accountability by January 15, 2023, and annually thereafter throughout the term of the pilot program.