WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 419

BY SENATORS WELD, WOELFEL, LINDSAY, ROMANO,

STOLLINGS, AND PLYMALE

[Passed March 07, 2022; in effect 90 days from passage]
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[Passed March 07, 2022; in effect 90 days from passage]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-29, relating to the Department of Health and Human Resources entering into contracts with managed care organizations that allow payments based upon performance-based metrics; evaluating the impact that post-discharge planning and the provision of wraparound services has on the outcomes of substance use disorder in three years post-substance use disorder residential treatment; requiring the Bureau for Medical services to seek an amendment to existing waivers from the Centers for Medicare and Medicaid Services; creating advisory committee; setting terms of performance based contract; and required reporting.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§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 Health and Human Resources.

(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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 30th Day of March 2022.

Governor