

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]

FILED

2022 MAR 30 P 5:18

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

11495

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

1 (a) For purposes of this section:

2 (1) "Department" means the Department of Health and Human Resources.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

65 such as phased payment for services. However, the MCO may develop a shared saving
66 methodology through which the substance use disorder residential treatment facility shall receive
67 a defined share of any savings that result from improved performance.

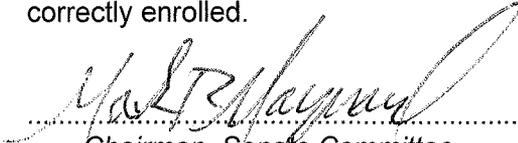
68 (g) The department shall hire a full-time employee who will actively monitor the substance
69 use disorder residential treatment facility's compliance with required reporting, monitor contracts
70 executed under this section, and support the advisory committee in determining the best practices
71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

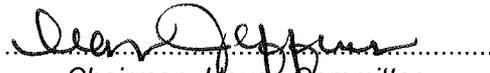
72 (h) The advisory committee shall evaluate this pilot program annually for effectiveness,
73 adjust metrics as indicated to improve quality outcomes, and assess the pilot for continuation.

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

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

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


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Chairman, Senate Committee

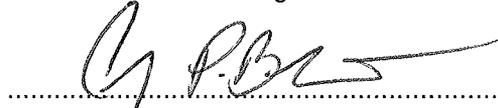

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates

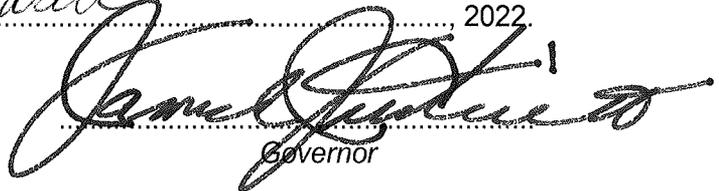

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President of the Senate


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Speaker of the House of Delegates

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SECRETARY OF STATE
2022 MAR 30 P 5:18

FILED

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


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 09 2022

Time 11:06am