

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 820**

BY SENATORS WELD AND PLYMALE

[Originating in the Committee on Health and Human  
Resources; reported February 23, 2024]



1 A BILL to amend and reenact §9-5-29 of the Code of West Virginia, 1931, as amended, relating  
2 to substance abuse; defining terms; requiring the Department of Human Services to  
3 develop performance measures; establishing deadlines; requiring reporting; requiring the  
4 department to develop a quality withhold program; establishing deadlines; and requiring  
5 the department to develop a workplan for automatic day one enrollment to a managed  
6 care organization for all Medicaid enrollees.

*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.~~The Department of Human Services to develop outcome measures for substance use disorder; the department to develop a quality withhold program; and the department to develop and implement plan for day one enrollment of Medicaid enrollees.**

1 (a) For purposes of this section:

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

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

7 (3)"Managed care organizations" "MCOs" means Medicaid managed care organizations  
8 a certified HMO that provides health care services to Medicaid members pursuant to an  
9 agreement or contract with the Bureau for Medical Services.

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

14 model, having a portion of a rate withheld subject to performance consistent with established  
15 quality requirements.

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

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

20 ~~(b) Within three months of effective date, Bureau for Medical Services shall seek an~~  
21 ~~amendment to an existing waiver or waivers from the Centers for Medicare and Medicaid Services~~  
22 ~~to support the pilot program. Within 90 days of Centers for Medicare and Medicaid Services~~  
23 ~~approval, Bureau for Medical Services shall enter into contracts with the MCOs wherein, at a~~  
24 ~~minimum, 15 percent of substance use disorder residential treatment contracts for facilities~~  
25 ~~providing substance use disorder treatment services are paid based upon performance-based~~  
26 ~~measures. The department, Bureau for Medical Services, shall develop performance outcome~~  
27 measures to be implemented at the provider level for substance use disorder in-patient providers.  
28 These provider-level outcome measures will include, but not be limited to, nationally recognized  
29 measures of performance outcomes related to substance use disorder in-patient care. The  
30 department will utilize national standards from Hedis and/or Atlas, as well as other standardized  
31 measures, in developing the provider-level outcome measures. The measures will be reported to  
32 the Legislative Oversight Commission on Health and Human Resources Accountability on or  
33 before August 30, 2024, and will be implemented no later than January 1, 2025, from the initial  
34 baseline. These measures shall be shared with the managed care organizations to inform  
35 contracting decisions.

36 ~~(c) The department's contracts with the MCOs shall be developed and implemented in a~~  
37 ~~manner that complies with the applicable provisions of this code and are exempt from §5A-3-1 et~~  
38 ~~seq. of this code. The department, Bureau for Medical Services, shall develop a managed care~~  
39 quality withhold program based upon nationally recognized measures of performance outcomes,

40 including those related to substance use disorder in-patient care. These measures will be reported  
41 to the Legislative Oversight Commission on Health and Human Resources Accountability on or  
42 before May 30, 2024, and implemented for baseline July 1, 2024. The baseline year will be to  
43 establish new entrant into the market. The capitation withhold will begin July 1, 2025.

44 ~~(d) The MCOs shall contract with substance use disorder residential treatment facilities~~  
45 ~~and allow substance use disorder treatment facilities the option to be paid based upon~~  
46 ~~performance-based metrics. Substance use disorder residential treatment facilities that opt for~~  
47 ~~performance-based contracting shall including the following: The department, Bureau for Medical~~  
48 ~~Services, shall plan for automatic day one enrollment to a managed care organization for all~~  
49 ~~Medicaid enrollees. This workplan shall be presented to the Legislative Oversight Commission on~~  
50 ~~Health and Human Resources Accountability on or before September 30, 2024. The workplan will~~  
51 ~~detail the steps to accomplish this goal, the system changes required, the CMS authority changes~~  
52 ~~required along with a detailed timeline of milestones, and a projected completion deadline.~~

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

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

63 ~~(3) The department shall create an advisory committee that includes representatives from~~  
64 ~~the Office of Drug Control Policy, the Bureau for Behavioral Health, the Bureau for Medical~~

65 ~~Services, and the MCO to develop the performance-based metrics for which payment is based~~  
66 ~~that shall include, but are not limited to, the following:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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