

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 820

By Senators Weld and Plymale

[Introduced February 16, 2024; referred
to the Committee on Health and Human Resources;
and then to the Committee on Finance]

1 A BILL to amend and reenact §9-5-29 of the Code of West Virginia, 1931, as amended, relating to
 2 substance abuse; defining terms; requiring the Department of Human Services to create a
 3 program to improve quality of care rendered to the substance use disorder population by
 4 applying automatic enrollment to the managed care population; setting forth variables to
 5 consider for preference in automatic enrollment; providing effective date; and requiring
 6 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 "Automatic assignment" means individuals required to enroll who do not select a managed
 3 care organization and are automatically assigned to a specific managed care organization.

4 ~~(1) "Department" means the Department of Health and Human Resources~~ Department of
 5 Human Services.

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

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

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

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. Notwithstanding any code provision to the contrary, beginning July 1, 2024, the~~
27 ~~Department of Human Services shall create a financially neutral, performance incentive program~~
28 ~~to improve the quality of care rendered in its substance use disorder population. This program~~
29 ~~shall provide automatic assignment by applying a set of performance indicators to the process of~~
30 ~~differentially assigning a plan to those individuals who do not select a specific managed care~~
31 ~~organization.~~

32 (c) ~~The department's contracts with the MCOs shall be developed and implemented in a~~
33 ~~manner that complies with the applicable provisions of this code and are exempt from §5A-3-1 et~~
34 ~~seq. of this code. On July 1, 2024, the MCO contract shall be subject to automatic enrollment~~
35 ~~algorithm based upon the following:~~

36 (1) ~~An individual shall be assigned to a managed care organization if it is geographically~~
37 ~~accessible;~~

38 (2) ~~An individual shall be assigned to a managed care organization only if it has sufficient~~
39 ~~capacity; and~~

40 (3) ~~The remainder of automatic assignments shall be distributed based upon management~~
41 ~~of, including but not limited to the following variables:~~

42 (A) ~~Length of time to initiation of substance use disorder treatment,~~

- 43 (B) Length of time to engagement of substance use disorder treatment,
- 44 (C) Length of time to follow up after hospitalization for emergency department visit for
- 45 substance use disorder;
- 46 (D) Length of time to initiation of pharmacotherapy for substance use disorder;
- 47 (E) Length of time individual is prescribed pharmacotherapy for substance use disorder;
- 48 (F) Number of times individual is assessed for use of opioids from multiple providers;
- 49 (G) Number of times individual is assessed for use of opioids at high dosage; and
- 50 (H) Number of times individual is assessed for continued risk of opioid use, continued
- 51 employment status, continued housing status, re-admission to treatment facility, non-fatal
- 52 overdose, fatal overdose; birth of neonatal abstinence syndrome infant, and access to
- 53 transportation.

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

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

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

68 ~~(3) The department shall create an advisory committee that includes representatives from~~

69 ~~the Office of Drug Control Policy, the Bureau for Behavioral Health, the Bureau for Medical~~
70 ~~Services, and the MCO to develop the performance-based metrics for which payment is based~~
71 ~~that shall include, but are not limited to, the following:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

105 ~~(j)-(d)~~ The department shall conduct actuarial analysis of the ~~pilot~~ program annually and
106 submit this report together with a detailed report of the overall performance of the ~~pilot~~ program,
107 including but not limited to, any performance-based metrics added in the fiscal year, and a
108 recommendation regarding the effectiveness of the program to the Legislative Oversight
109 Commission on Health and Human Resources Accountability by ~~January~~ November 15, ~~2023,~~
110 2024 and annually thereafter ~~throughout the term of the pilot program.~~

NOTE: The purpose of this bill is to require the Department of Human Services to create a program to improve quality of care rendered to the substance use disorder population by applying automatic enrollment.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.