

# **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]



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*

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*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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The within ..... this the.....  
Day of ....., 2022.

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*Governor*