

STATE OF NEW YORK

8058--A

IN SENATE

January 21, 2022

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to including mental health services, substance use disorder treatment services and recovery support services to network adequacy requirements; and directs the superintendent of financial services and the commissioner of health to review data and update regulations regarding health maintenance organizations and network adequacy requirements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "ensuring access to behavioral health act".

3 § 2. Subdivision 3 of section 4401 of the public health law, as added
4 by chapter 938 of the laws of 1976, is amended to read as follows:

5 3. "Comprehensive health services" means all those health services
6 which an enrolled population might require in order to be maintained in
7 good health, and shall include, but shall not be limited to, physician
8 services (including consultant and referral services), in-patient and
9 out-patient hospital services, mental health services, substance use
10 disorder treatment services, recovery support services, diagnostic labo-
11 ratory and therapeutic and diagnostic radiologic services, and emergency
12 and preventive health services. Such term may be further defined by
13 agreement with enrolled populations providing additional benefits neces-
14 sary, desirable or appropriate to meet their health care needs.

15 § 3. Paragraph (a) of subdivision 5 of section 4403 of the public
16 health law, as amended by chapter 586 of the laws of 1998, is amended to
17 read as follows:

18 (a) The commissioner, at the time of initial licensure, at least every
19 three years thereafter, and upon application for expansion of service
20 area, shall ensure that the health maintenance organization maintains a
21 network of health care providers adequate to meet the comprehensive
22 health needs, including mental health services, substance use disorder

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD14163-05-2

1 treatment services, including but not limited to opioid treatment
2 programs and medication assisted treatment options, and recovery support
3 services, of its enrollees and to provide an appropriate choice of
4 providers sufficient to provide the services covered under its
5 enrollee's contracts by determining that (i) there are a sufficient
6 number of geographically accessible participating providers, including
7 all opioid treatment programs in all counties of the state and in the
8 city of New York and all authorized buprenorphine prescribers in all
9 counties of the state and in the city of New York; (ii) there are oppor-
10 tunities to select from at least three primary care providers pursuant
11 to travel and distance time standards, providing that such standards
12 account for the conditions of accessing providers in rural areas; (iii)
13 there are sufficient providers in each area of specialty practice to
14 meet the needs of the enrollment population; (iv) there is no exclusion
15 of any appropriately licensed type of provider as a class; and (v)
16 contracts entered into with health care providers neither transfer
17 financial risk to providers, in a manner inconsistent with the
18 provisions of paragraph (c) of subdivision one of this section, nor
19 penalize providers for unfavorable case mix so as to jeopardize the
20 quality of or enrollees' appropriate access to medically necessary
21 services; provided, however, that payment at less than prevailing fee
22 for service rates or capitation shall not be deemed or presumed prima
23 facie to jeopardize quality or access.

24 § 4. The superintendent of financial services, in consultation with
25 the office of addiction services and supports and the office of mental
26 health, shall review data gathered through the mental health and
27 substance use disorder parity compliance program required under 11 NYCRR
28 230.3 for every insurer, corporation organized pursuant to article 43 of
29 the insurance law, municipal cooperative health benefit plan certified
30 pursuant to article 47 of the insurance law, health maintenance organ-
31 ization certified pursuant to article 44 of the public health law, or
32 student health plan established or maintained pursuant to section 1124
33 of the insurance law. After such review and review of national best
34 practices for network adequacy for behavioral health, the superintendent
35 of financial services shall update any regulations or guidance regarding
36 network adequacy for all mental health and substance use disorder
37 services. Such updated regulations or guidance shall be based on
38 national best practices and shall include quantitative measures for
39 geographic distance and/or travel time, appointment wait time and
40 provider/enrollee ratios and any other appropriate metric determined by
41 the superintendent to be necessary to ensure access to needed mental
42 health and substance use disorder services. Such regulations shall
43 include a review of the appropriate use of telephonic and telehealth
44 services to supplement in-person services, as well as the adequacy of
45 the network to meet the needs of specific covered groups, including but
46 not limited to, low-income persons, persons with limited English profi-
47 ciency or illiteracy, diverse cultural or ethnic backgrounds, LGBTQ,
48 persons with disabilities, and children and adults with serious, chronic
49 or complex health conditions, including co-occurring mental health
50 conditions and substance use disorders.

51 § 5. The commissioner of health, in consultation with the independent
52 substance use disorder and mental health ombudsman, shall review and
53 update network adequacy requirements for mental health and substance use
54 disorder services covered by managed care plans as part of the periodic
55 reviews of plans network adequacy required by subdivision 11-a of
56 section 4403-f of the public health law. Such review and updated regu-

1 lations or guidance shall include quantitative measures for geographic
2 distance and/or travel time, appointment wait time and provider/enrollee
3 ratios and any other appropriate metric determined by the commissioner
4 of health to ensure access to mental health and substance use disorder
5 services. Such updated regulations shall be based on national best prac-
6 tices and shall include a review of the appropriate use of telephonic
7 and telehealth services to supplement in-person services, as well as the
8 adequacy of the network to meet the needs of specific covered groups,
9 including but not limited to, low-income persons, persons with limited
10 English proficiency or illiteracy, diverse cultural or ethnic back-
11 grounds, LGBTQ, persons with disabilities, and children and adults with
12 serious, chronic or complex health conditions, including co-occurring
13 mental health conditions and substance use disorders.
14 § 6. This act shall take effect immediately.