

STATE OF NEW YORK

9303--A

IN ASSEMBLY

February 23, 2022

Introduced by M. of A. STECK -- read once and referred 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
23 treatment services, including but not limited to opioid treatment

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

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

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

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

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

13 § 6. This act shall take effect immediately.