

# STATE OF NEW YORK

8058

## 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

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

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  
24 programs and medication assisted treatment options, and recovery support  
25 services, of its enrollees and to provide an appropriate choice of  
26 providers sufficient to provide the services covered under its

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

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

20 § 4. This act shall take effect immediately.