

# STATE OF NEW YORK

499

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sen. FERNANDEZ -- 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; 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

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

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

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

53 § 5. The commissioner of health, in consultation with the independent  
54 substance use disorder and mental health ombudsperson, shall review and  
55 update network adequacy requirements for mental health and substance use  
56 disorder services covered by managed care plans as part of the periodic

1 reviews of plans network adequacy required by subdivision 11-a of  
2 section 4403-f of the public health law. Such review and updated regu-  
3 lations or guidance shall include quantitative measures for geographic  
4 distance and/or travel time, appointment wait time and provider/enrollee  
5 ratios and any other appropriate metric determined by the commissioner  
6 of health to ensure access to mental health and substance use disorder  
7 services. Such updated regulations shall be based on national best prac-  
8 tices and shall include a review of the appropriate use of telephonic  
9 and telehealth services to supplement in-person services, as well as the  
10 adequacy of the network to meet the needs of specific covered groups,  
11 including but not limited to, low-income persons, persons with limited  
12 English proficiency or illiteracy, diverse cultural or ethnic back-  
13 grounds, LGBTQ, persons with disabilities, and children and adults with  
14 serious, chronic or complex health conditions, including co-occurring  
15 mental health conditions and substance use disorders.

16 § 6. This act shall take effect immediately.