

SENATE BILL 582

J1, J3

3lr0460
CF 3lr0459

By: **Senator Augustine**

Introduced and read first time: February 6, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Behavioral Health Care – Treatment and Access**
3 **(Behavioral Health Model for Maryland)**

4 FOR the purpose of establishing the Commission on Behavioral Health Care Treatment
5 and Access to make recommendations to provide appropriate, accessible, and
6 comprehensive behavioral health services to individuals in the State across the
7 behavioral health continuum that are available on demand; establishing the
8 Behavioral Health Care Coordination Value–Based Purchasing Pilot Program in the
9 Maryland Department of Health to establish and implement an intensive care
10 coordination model using value–based purchasing in the specialty behavioral health
11 system; requiring, on or before a certain date, the Department to submit a State plan
12 amendment to the Centers for Medicare and Medicaid Services to establish certified
13 community behavioral health clinics; extending to a certain date the inclusion of
14 certain audio–only telephone conversations in the definition of “telehealth” in the
15 Maryland Medical Assistance Program and certain requirements related to the
16 provision of reimbursement for health care services appropriately provided through
17 telehealth by the Program and certain insurers, nonprofit health service plans, and
18 health maintenance organizations; and generally relating to behavioral health care
19 treatment and access.

20 BY adding to
21 Article – Health – General
22 Section 13–4801 through 13–4807 to be under the new subtitle “Subtitle 48.
23 Commission on Behavioral Health Care Treatment and Access”; 13–4901
24 through 13–4907 to be under the new subtitle “Subtitle 49. Behavioral Health
25 Care Coordination Value–Based Purchasing Pilot Program”; and 15–141.5
26 Annotated Code of Maryland
27 (2019 Replacement Volume and 2022 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 15–141.2
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 15–139
Annotated Code of Maryland
(2017 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

**SUBTITLE 48. COMMISSION ON BEHAVIORAL HEALTH CARE TREATMENT AND
ACCESS.**

13–4801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “BEHAVIORAL HEALTH” INCLUDES SUBSTANCE–RELATED DISORDERS,
ADDICTIVE DISORDERS, MENTAL DISORDERS, LIFE STRESSORS AND CRISES, AND
STRESS–RELATED PHYSICAL SYMPTOMS.

(C) “COMMISSION” MEANS THE COMMISSION ON BEHAVIORAL HEALTH
CARE TREATMENT AND ACCESS.

13–4802.

THERE IS A COMMISSION ON BEHAVIORAL HEALTH CARE TREATMENT AND
ACCESS.

13–4803.

(A) THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE
PRESIDENT OF THE SENATE;

(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE
SPEAKER OF THE HOUSE;

1 (3) ONE REPRESENTATIVE OF MARYLAND'S CONGRESSIONAL
2 DELEGATION;

3 (4) THE SECRETARY OF HEALTH, OR THE SECRETARY'S DESIGNEE;

4 (5) THE SECRETARY OF HUMAN SERVICES, OR THE SECRETARY'S
5 DESIGNEE;

6 (6) THE SECRETARY OF JUVENILE SERVICES, OR THE SECRETARY'S
7 DESIGNEE;

8 (7) THE DEPUTY SECRETARY FOR BEHAVIORAL HEALTH, OR THE
9 DEPUTY SECRETARY'S DESIGNEE;

10 (8) THE MARYLAND INSURANCE COMMISSIONER, OR THE
11 COMMISSIONER'S DESIGNEE;

12 (9) THE EXECUTIVE DIRECTOR OF THE HEALTH SERVICES COST
13 REVIEW COMMISSION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

14 (10) THE EXECUTIVE DIRECTOR OF THE MARYLAND HEALTH CARE
15 COMMISSION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

16 (11) THE EXECUTIVE DIRECTOR OF THE MARYLAND COMMUNITY
17 HEALTH RESOURCES COMMISSION, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

18 (12) THE EXECUTIVE DIRECTOR OF THE STATE-DESIGNATED HEALTH
19 INFORMATION EXCHANGE, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

20 (13) THE EXECUTIVE DIRECTOR OF THE GOVERNOR'S OFFICE OF
21 CRIME PREVENTION, YOUTH, AND VICTIM SERVICES, OR THE EXECUTIVE
22 DIRECTOR'S DESIGNEE; AND

23 (14) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

24 (i) ONE REPRESENTATIVE OF THE MENTAL HEALTH
25 ASSOCIATION OF MARYLAND;

26 (ii) ONE REPRESENTATIVE OF THE NATIONAL ALLIANCE ON
27 MENTAL ILLNESS;

28 (iii) ONE REPRESENTATIVE OF THE COMMUNITY BEHAVIORAL
29 HEALTH ASSOCIATION OF MARYLAND;

(IV) ONE REPRESENTATIVE OF A PROVIDER OF RESIDENTIAL
BEHAVIORAL HEALTH SERVICES;

(V) ONE REPRESENTATIVE OF AN ACUTE CARE HOSPITAL;

(VI) ONE REPRESENTATIVE OF AN INPATIENT PSYCHIATRIC
HOSPITAL;

(VII) ONE INDIVIDUAL WITH EXPERIENCE AS A CONSUMER OF
BEHAVIORAL HEALTH SERVICES;

(VIII) ONE FAMILY MEMBER OF AN INDIVIDUAL WITH
EXPERIENCE AS A CONSUMER OF BEHAVIORAL HEALTH SERVICES;

(IX) ONE REPRESENTATIVE OF A PROVIDER OF SUBSTANCE USE
TREATMENT SERVICES;

(X) ONE REPRESENTATIVE OF A SCHOOL-BASED HEALTH
CENTER;

(XI) ONE INDIVIDUAL WITH EXPERTISE IN SOCIAL
DETERMINANTS OF HEALTH;

(XII) ONE INDIVIDUAL WITH EXPERTISE IN HEALTH ECONOMICS;

(XIII) ONE REPRESENTATIVE OF A HEALTH INSURANCE CARRIER;

(XIV) ONE REPRESENTATIVE OF A MANAGED CARE
ORGANIZATION;

(XV) ONE REPRESENTATIVE FROM THE OFFICE OF THE PUBLIC
DEFENDER;

(XVI) ONE REPRESENTATIVE OF THE DEVELOPMENTAL
DISABILITY COALITION;

(XVII) ONE REPRESENTATIVE OF THE MARYLAND CHAPTER OF
THE NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE;

(XVIII) ONE REPRESENTATIVE OF THE MARYLAND
PSYCHOLOGICAL ASSOCIATION; AND

(XIX) ONE REPRESENTATIVE OF DISABILITY RIGHTS MARYLAND.

(B) TO THE EXTENT PRACTICABLE, THE MEMBERSHIP OF THE COMMISSION SHALL REFLECT THE GEOGRAPHIC AND ETHNIC DIVERSITY OF THE STATE.

(C) THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE JOINTLY SHALL DESIGNATE THE CHAIR OF THE COMMISSION.

(D) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE COMMISSION.

(E) A MEMBER OF THE COMMISSION:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE COMMISSION; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(F) THE COMMISSION SHALL MEET AT LEAST THREE TIMES PER YEAR AT THE TIMES AND PLACES DETERMINED BY THE COMMISSION.

13-4804.

THE PURPOSE OF THE COMMISSION IS TO MAKE RECOMMENDATIONS TO PROVIDE APPROPRIATE, ACCESSIBLE, AND COMPREHENSIVE BEHAVIORAL HEALTH SERVICES TO INDIVIDUALS IN THE STATE ACROSS THE BEHAVIORAL HEALTH CONTINUUM THAT ARE AVAILABLE ON DEMAND.

13-4805.

THE COMMISSION SHALL:

(1) CONDUCT AN ASSESSMENT OF BEHAVIORAL HEALTH SERVICES IN THE STATE TO IDENTIFY NEEDS AND GAPS IN SERVICES ACROSS THE CONTINUUM, INCLUDING COMMUNITY-BASED OUTPATIENT AND SUPPORT SERVICES, CRISIS RESPONSE, AND INPATIENT CARE;

(2) EXAMINE THE METHODS FOR REIMBURSING BEHAVIORAL HEALTH CARE SERVICES IN THE STATE AND MAKE RECOMMENDATIONS ON THE MOST EFFECTIVE FORMS OF REIMBURSEMENT TO MAXIMIZE SERVICE DELIVERY;

(3) COMPILE FINDINGS OF STATE-SPECIFIC NEEDS ASSESSMENTS RELATED TO BEHAVIORAL HEALTH CARE SERVICES;

1 **(4) REVIEW RECOMMENDATIONS AND REPORTS OF STATE**
2 **COMMISSIONS, WORKGROUPS, OR TASK FORCES RELATED TO BEHAVIORAL HEALTH**
3 **CARE SERVICES;**

4 **(5) CONDUCT A NEEDS ASSESSMENT ON THE STATE'S BEHAVIORAL**
5 **HEALTH CARE WORKFORCE TO IDENTIFY GAPS AND MAKE RECOMMENDATIONS TO**
6 **ENSURE AN ADEQUATE WORKFORCE ACROSS THE BEHAVIORAL HEALTH CARE**
7 **CONTINUUM;**

8 **(6) REVIEW TRENDS AND BEST PRACTICES FROM OTHER STATES**
9 **REGARDING POLICY AND REIMBURSEMENT STRATEGIES THAT SUPPORT ACCESS TO**
10 **A COMPREHENSIVE ARRAY OF SERVICES AND ENSURE QUALITY OF CARE;**

11 **(7) EXAMINE AND MAKE RECOMMENDATIONS RELATED TO THE**
12 **BEHAVIORAL HEALTH OF THE GERIATRIC AND YOUTH POPULATIONS IN THE STATE;**

13 **(8) EXAMINE AND MAKE RECOMMENDATIONS TO PROVIDE**
14 **APPROPRIATE AND ADEQUATE BEHAVIORAL HEALTH SERVICES TO INDIVIDUALS**
15 **WITH COMPLEX BEHAVIORAL HEALTH NEEDS, SPECIFICALLY YOUTH;**

16 **(9) ASSESS THE HEALTH INFRASTRUCTURE, FACILITIES,**
17 **PERSONNEL, AND SERVICES AVAILABLE FOR THE STATE'S FORENSIC POPULATION**
18 **AND IDENTIFY DEFICIENCIES IN RESOURCES AND POLICIES NEEDED TO PRIORITIZE**
19 **HEALTH OUTCOMES, INCREASE PUBLIC SAFETY, AND REDUCE RECIDIVISM;**

20 **(10) MAKE RECOMMENDATIONS ON EXPANDING BEHAVIORAL HEALTH**
21 **TREATMENT ACCESS FOR THE STATE'S COURT-ORDERED POPULATION;**

22 **(11) MAKE RECOMMENDATIONS ON ACTION PLANS REGARDING THE**
23 **BEHAVIORAL HEALTH CARE SYSTEM'S CAPACITY TO PREPARE FOR AND RESPOND TO**
24 **FUTURE CHALLENGES AFFECTING THE ENTIRE STATE OR PARTICULAR REGIONS OR**
25 **POPULATIONS IN THE STATE, INCLUDING PANDEMICS AND EXTREME WEATHER**
26 **EVENTS; AND**

27 **(12) MAKE RECOMMENDATIONS TO ENSURE THAT BEHAVIORAL**
28 **HEALTH TREATMENT IS PROVIDED IN THE APPROPRIATE SETTING, INCLUDING**
29 **METHODS TO DIVERT BEHAVIORAL HEALTH PATIENTS FROM EMERGENCY**
30 **DEPARTMENTS BY USING THE MARYLAND MENTAL HEALTH AND SUBSTANCE USE**
31 **DISORDER REGISTRY AND REFERRAL SYSTEM ESTABLISHED UNDER § 7.5-802 OF**
32 **THIS ARTICLE AND 2-1-1.**

33 **13-4806.**

1 **(A) THE COMMISSION SHALL ESTABLISH THE FOLLOWING WORKGROUPS:**

2 **(1) GERIATRIC BEHAVIORAL HEALTH;**

3 **(2) YOUTH BEHAVIORAL HEALTH AND INDIVIDUALS WITH COMPLEX**
4 **BEHAVIORAL HEALTH NEEDS;**

5 **(3) CRIMINAL JUSTICE–INVOLVED BEHAVIORAL HEALTH; AND**

6 **(4) BEHAVIORAL HEALTH WORKFORCE DEVELOPMENT,**
7 **INFRASTRUCTURE, AND FINANCING.**

8 **(B) THE WORKGROUPS ESTABLISHED UNDER SUBSECTION (A) OF THIS**
9 **SECTION SHALL MEET AT LEAST TWO TIMES PER YEAR AT THE TIMES AND PLACES**
10 **DETERMINED BY THE WORKGROUP.**

11 **(C) THE WORKGROUPS ESTABLISHED UNDER SUBSECTION (A) OF THIS**
12 **SECTION SHALL INCLUDE MEMBERS OF THE COMMISSION AND MAY INCLUDE**
13 **INDIVIDUALS INVITED BY THE COMMISSION TO SERVE ON THE WORKGROUP.**

14 **(D) ON OR BEFORE DECEMBER 1 EACH YEAR, BEGINNING IN 2023, THE**
15 **WORKGROUPS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION SHALL**
16 **REPORT AND MAKE RECOMMENDATIONS TO THE COMMISSION.**

17 **13–4807.**

18 **(A) (1) ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2024, THE**
19 **COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**
20 **2–1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE**
21 **COMMISSION’S FINDINGS AND RECOMMENDATIONS, INCLUDING FUNDING AND**
22 **LEGISLATIVE RECOMMENDATIONS.**

23 **(2) ANY LEGISLATIVE RECOMMENDATIONS INCLUDED IN THE**
24 **REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT REQUIRE**
25 **FUNDING SHALL INCLUDE AN ESTIMATE OF THE FUNDING REQUIRED TO**
26 **IMPLEMENT THE RECOMMENDATION AND INFORMATION THAT SUPPORTS THE**
27 **FUNDING ESTIMATE.**

28 **(B) THE REPORT REQUIRED ON OR BEFORE JANUARY 1, 2024, SHALL**
29 **INCLUDE THE FINDINGS OF THE NEEDS ASSESSMENTS REQUIRED UNDER § 13–4805**
30 **OF THIS SUBTITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

SUBTITLE 49. BEHAVIORAL HEALTH CARE COORDINATION VALUE–BASED PURCHASING PILOT PROGRAM.

13–4901.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BEHAVIORAL HEALTH CARE COORDINATION” MEANS A PERSON–CENTERED, TEAM–BASED ACTIVITY DESIGNED TO:

(1) ASSESS AND MEET THE NEEDS OF AN INDIVIDUAL WITH A BEHAVIORAL HEALTH CONDITION; AND

(2) HELP THE INDIVIDUAL NAVIGATE THE HEALTH CARE SYSTEM EFFECTIVELY AND EFFICIENTLY.

(C) “PILOT PROGRAM” MEANS THE BEHAVIORAL HEALTH CARE COORDINATION VALUE–BASED PURCHASING PILOT PROGRAM.

(D) “VALUE–BASED PURCHASING” MEANS FINANCIALLY INCENTIVIZING PROVIDERS TO MEET SPECIFIED OUTCOME MEASURES.

13–4902.

THERE IS A BEHAVIORAL HEALTH CARE COORDINATION VALUE–BASED PURCHASING PILOT PROGRAM IN THE DEPARTMENT.

13–4903.

THE PURPOSE OF THE PILOT PROGRAM IS TO ESTABLISH AND IMPLEMENT AN INTENSIVE CARE COORDINATION MODEL USING VALUE–BASED PURCHASING IN THE SPECIALTY BEHAVIORAL HEALTH SYSTEM.

13–4904.

(A) THE DEPARTMENT SHALL ADMINISTER THE PILOT PROGRAM.

1 **(B) THE DEPARTMENT SHALL IDENTIFY AT LEAST 500 ADULTS WHOSE**
2 **BEHAVIORAL HEALTH CONDITION OR FUNCTIONING PLACES THEM AT RISK OF**
3 **HOSPITAL EMERGENCY DEPARTMENT UTILIZATION OR INPATIENT PSYCHIATRIC**
4 **HOSPITAL ADMISSION.**

5 **(C) THE PILOT PROGRAM SHALL BE OPERATIONAL FOR A 3-YEAR PERIOD.**

6 **(D) A PROVIDER OR NETWORK OF PROVIDERS SELECTED TO PARTICIPATE**
7 **IN THE PILOT PROGRAM SHALL:**

8 **(1) BE LICENSED AND IN GOOD STANDING WITH THE MARYLAND**
9 **MEDICAL ASSISTANCE PROGRAM;**

10 **(2) HAVE EXPERIENCE IN PROVIDING COMMUNITY-BASED CARE**
11 **COORDINATION TO SPECIALTY BEHAVIORAL HEALTH PROGRAM RECIPIENTS;**

12 **(3) USE AN ELECTRONIC MEDICAL RECORD FOR DOCUMENTING CARE**
13 **COORDINATION ACTIVITIES AND OUTCOMES COLLECTION; AND**

14 **(4) HAVE AN AUTOMATED DATA EXCHANGE WITH THE**
15 **STATE-DESIGNATED HEALTH INFORMATION EXCHANGE.**

16 **(E) THE DEPARTMENT SHALL:**

17 **(1) PROVIDE REIMBURSEMENT ON A PER MEMBER PER MONTH BASIS**
18 **FOR THE BEHAVIORAL HEALTH CARE COORDINATION ACTIVITIES THAT ARE NOT**
19 **OTHERWISE COVERED BY THE MARYLAND MEDICAL ASSISTANCE PROGRAM;**

20 **(2) COLLECT OUTCOMES DATA ON RECIPIENTS OF HEALTH CARE**
21 **SERVICES UNDER THE PILOT PROGRAM; AND**

22 **(3) EVALUATE THE EFFECTIVENESS OF THE VALUE-BASED**
23 **PURCHASING MODEL BY ANALYZING THE FOLLOWING OUTCOME MEASURES:**

24 **(I) A COMPARISON OF THE FOLLOWING DATA ELEMENTS**
25 **BEFORE AND AFTER ENROLLMENT OF RECIPIENTS OF HEALTH CARE SERVICES**
26 **UNDER THE PILOT PROGRAM:**

27 **1. EMERGENCY DEPARTMENT UTILIZATION FOR BOTH**
28 **BEHAVIORAL AND SOMATIC HEALTH PURPOSES;**

29 **2. INPATIENT HOSPITALIZATION FOR BOTH**
30 **BEHAVIORAL AND SOMATIC HEALTH PURPOSES; AND**

3. TOTAL HEALTH CARE EXPENDITURES;

(II) OUTCOMES FOR RECIPIENTS WITH AND WITHOUT PRIMARY CARE SERVICES COORDINATED BY A BEHAVIORAL HEALTH PROVIDER; AND

(III) RECOGNIZED CLINICAL QUALITY METRICS WHICH MAY INCLUDE PATIENT EXPERIENCE MEASURES.

13-4905.

IF NECESSARY TO IMPLEMENT THE PILOT PROGRAM, THE DEPARTMENT SHALL APPLY TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR AN AMENDMENT TO THE STATE'S § 1115 HEALTHCHOICE DEMONSTRATION.

13-4906.

(A) FOR EACH OF FISCAL YEAR 2025, FISCAL YEAR 2026, AND FISCAL YEAR 2027, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN APPROPRIATION OF \$600,000 FOR THE PILOT PROGRAM.

(B) BEGINNING IN FISCAL YEAR 2026, THE DEPARTMENT SHALL ALLOCATE A PERCENTAGE OF THE ANNUAL APPROPRIATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO REIMBURSEMENT PAID BASED ON THE ACHIEVEMENT OF THE OUTCOME MEASURES DESCRIBED IN § 13-4904(E)(3) OF THIS SUBTITLE.

(C) IN FISCAL YEAR 2027, THE DEPARTMENT SHALL INCREASE THE PERCENTAGE OF THE ANNUAL APPROPRIATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION ALLOCATED TO REIMBURSEMENT PAID IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION OVER THE PERCENTAGE ALLOCATED IN FISCAL YEAR 2026.

13-4907.

ON OR BEFORE NOVEMBER 1, 2027, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE DEPARTMENT'S FINDINGS AND RECOMMENDATIONS FROM THE PILOT PROGRAM.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health – General

1 15–141.2.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) “Distant site” means a site at which the distant site health care provider
4 is located at the time the health care service is provided through telehealth.

5 (3) “Distant site provider” means the health care provider who provides
6 medically necessary services to a patient at an originating site from a different physical
7 location than the location of the patient.

8 (4) “Health care provider” means:

9 (i) A person who is licensed, certified, or otherwise authorized under
10 the Health Occupations Article to provide health care in the ordinary course of business or
11 practice of a profession or in an approved education or training program;

12 (ii) A mental health and substance use disorder program licensed in
13 accordance with § 7.5–401 of this article;

14 (iii) A person licensed under Title 7, Subtitle 9 of this article to
15 provide services to an individual with developmental disability or a recipient of individual
16 support services; or

17 (iv) A provider as defined under § 16–201.4 of this article to provide
18 services to an individual receiving long-term care services.

19 (5) “Originating site” means the location of the Program recipient at the
20 time the health care service is provided through telehealth.

21 (6) “Remote patient monitoring services” means the use of synchronous or
22 asynchronous digital technologies that collect or monitor medical, patient-reported, and
23 other forms of health care data for Program recipients at an originating site and
24 electronically transmit that data to a distant site provider to enable the distant site
25 provider to assess, diagnose, consult, treat, educate, provide care management, suggest
26 self-management, or make recommendations regarding the Program recipient’s health
27 care.

28 (7) (i) “Telehealth” means the delivery of medically necessary somatic,
29 dental, or behavioral health services to a patient at an originating site by a distant site
30 provider through the use of technology-assisted communication.

31 (ii) “Telehealth” includes:

32 1. Synchronous and asynchronous interactions;

1 2. From July 1, 2021, to June 30, [2023] **2025**, both
2 inclusive, an audio-only telephone conversation between a health care provider and a
3 patient that results in the delivery of a billable, covered health care service; and

4 3. Remote patient monitoring services.

5 (iii) “Telehealth” does not include the provision of health care
6 services solely through:

7 1. Except as provided in subparagraph (ii)2 of this
8 paragraph, an audio-only telephone conversation;

9 2. An e-mail message; or

10 3. A facsimile transmission.

11 (b) The Program shall:

12 (1) Provide health care services appropriately delivered through telehealth
13 to Program recipients regardless of the location of the Program recipient at the time
14 telehealth services are provided; and

15 (2) Allow a distant site provider to provide health care services to a
16 Program recipient from any location at which the health care services may be appropriately
17 delivered through telehealth.

18 (c) The services required to be provided under subsection (b) of this section shall
19 include counseling and treatment for substance use disorders and mental health conditions.

20 (d) The Program may not:

21 (1) Exclude from coverage a health care service solely because it is provided
22 through telehealth and is not provided through an in-person consultation or contact
23 between a health care provider and a patient; or

24 (2) Exclude from coverage a behavioral health care service provided to a
25 Program recipient in person solely because the service may also be provided through
26 telehealth.

27 (e) The Program may undertake utilization review, including preauthorization,
28 to determine the appropriateness of any health care service whether the service is delivered
29 through an in-person consultation or through telehealth if the appropriateness of the
30 health care service is determined in the same manner.

31 (f) The Program may not distinguish between Program recipients in rural or
32 urban locations in providing coverage under the Program for health care services delivered
33 through telehealth.

1 (g) (1) Subject to paragraph (3) of this subsection, the Program shall
2 reimburse a health care provider for the diagnosis, consultation, and treatment of a
3 Program recipient for a health care service covered by the Program that can be
4 appropriately provided through telehealth.

5 (2) This subsection does not require the Program to reimburse a health
6 care provider for a health care service delivered in person or through telehealth that is:

7 (i) Not a covered health care service under the Program; or

8 (ii) Delivered by an out-of-network provider unless the health care
9 service is a self-referred service authorized under the Program.

10 (3) (i) From July 1, 2021, to June 30, [2023] **2025**, both inclusive, when
11 appropriately provided through telehealth, the Program shall provide reimbursement in
12 accordance with paragraph (1) of this subsection on the same basis and the same rate as if
13 the health care service were delivered by the health care provider in person.

14 (ii) The reimbursement required under subparagraph (i) of this
15 paragraph does not include:

16 1. Clinic facility fees unless the health care service is
17 provided by a health care provider not authorized to bill a professional fee separately for
18 the health care service; or

19 2. Any room and board fees.

20 (h) (1) The Department may specify in regulation the types of health care
21 providers eligible to receive reimbursement for health care services provided to Program
22 recipients under this section.

23 (2) If the Department specifies by regulation the types of health care
24 providers eligible to receive reimbursement for health care services provided to Program
25 recipients under this subsection, the regulations shall include all types of health care
26 providers that appropriately provide telehealth services.

27 (3) For the purpose of reimbursement and any fidelity standards
28 established by the Department, a health care service provided through telehealth is
29 equivalent to the same health care service when provided through an in-person
30 consultation.

31 (i) Subject to subsection (g)(2) of this section, the Program or a managed care
32 organization that participates in the Program may not impose as a condition of
33 reimbursement of a covered health care service delivered through telehealth that the
34 health care service be provided by a third-party vendor designated by the Program.

(j) The Department may adopt regulations to carry out this section.

(k) The Department shall obtain any federal authority necessary to implement the requirements of this section, including applying to the Centers for Medicare and Medicaid Services for an amendment to any of the State's § 1115 waivers or the State plan.

(l) This section may not be construed to supersede the authority of the Health Services Cost Review Commission to set the appropriate rates for hospitals, including setting the hospital facility fee for hospital-provided telehealth.

15-141.5.

(A) IN THIS SECTION, "CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC" MEANS A NONPROFIT COMPREHENSIVE COMMUNITY MENTAL HEALTH OR SUBSTANCE USE TREATMENT ORGANIZATION LICENSED BY THE STATE THAT MEETS THE FEDERAL CERTIFICATION CRITERIA OF § 223 OF THE FEDERAL PROTECTING ACCESS TO MEDICARE ACT OF 2014 AND OFFERS, DIRECTLY OR INDIRECTLY THROUGH FORMAL REFERRAL RELATIONSHIPS WITH OTHER PROVIDERS, THE FOLLOWING SERVICES:

(1) OUTPATIENT MENTAL HEALTH AND SUBSTANCE USE SERVICES;

(2) 24-HOUR MOBILE CRISIS RESPONSE AND HOTLINE SERVICES;

(3) SCREENING, ASSESSMENT, AND DIAGNOSIS, INCLUDING RISK ASSESSMENTS;

(4) PERSON-CENTERED TREATMENT PLANNING;

(5) PRIMARY CARE SCREENING AND MONITORING OF KEY INDICATORS OF HEALTH RISKS;

(6) TARGETED CASE MANAGEMENT;

(7) PSYCHIATRIC REHABILITATION SERVICES;

(8) PEER SUPPORT AND FAMILY SUPPORTS;

(9) MEDICATION-ASSISTED TREATMENT;

(10) ASSERTIVE COMMUNITY TREATMENT; AND

(11) COMMUNITY-BASED MENTAL HEALTH CARE FOR MILITARY SERVICE MEMBERS AND VETERANS.

1 **(B) ON OR BEFORE DECEMBER 1, 2023, THE DEPARTMENT SHALL SUBMIT**
2 **A STATE PLAN AMENDMENT TO THE CENTERS FOR MEDICARE AND MEDICAID**
3 **SERVICES TO ESTABLISH CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS IN**
4 **ACCORDANCE WITH § 223 OF THE FEDERAL PROTECTING ACCESS TO MEDICARE**
5 **ACT OF 2014.**

6 **(C) IF THE AMENDMENT SUBMITTED UNDER SUBSECTION (B) OF THIS**
7 **SECTION IS APPROVED, THE DEPARTMENT SHALL AMEND THE STATE PLAN IN**
8 **ACCORDANCE WITH TITLE XIX AND TITLE XXI OF THE SOCIAL SECURITY ACT AS**
9 **NECESSARY TO COVER:**

10 **(1) ALL REQUIRED SERVICES FOR INDIVIDUALS WITH MENTAL**
11 **HEALTH NEEDS OR SUBSTANCE USE DISORDERS AT CERTIFIED COMMUNITY**
12 **BEHAVIORAL HEALTH CLINICS THROUGH A DAILY BUNDLED PAYMENT**
13 **METHODOLOGY THAT IS IN ALIGNMENT WITH FEDERAL PAYMENT FROM THE**
14 **CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR THE CERTIFIED**
15 **COMMUNITY BEHAVIORAL HEALTH CLINICS MEDICAID DEMONSTRATION UNDER §**
16 **223 OF THE FEDERAL PROTECTING ACCESS TO MEDICARE ACT OF 2014; AND**

17 **(2) ANY ADDITIONAL SERVICES IDENTIFIED BY THE DEPARTMENT.**

18 **(D) (1) THE DEPARTMENT SHALL ESTABLISH STANDARDS AND**
19 **METHODOLOGIES FOR A PROSPECTIVE PAYMENT SYSTEM TO REIMBURSE A**
20 **CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC UNDER THE PROGRAM ON A**
21 **PREDETERMINED FIXED AMOUNT PER DAY FOR COVERED SERVICES PROVIDED TO A**
22 **PROGRAM RECIPIENT.**

23 **(2) THE PROSPECTIVE PAYMENT RATE FOR A CERTIFIED COMMUNITY**
24 **BEHAVIORAL HEALTH CLINIC SHALL:**

25 **(I) BE ADJUSTED ONCE EVERY 3 YEARS BY THE MEDICARE**
26 **ECONOMIC INDEX IN ACCORDANCE WITH § 223 OF THE FEDERAL PROTECTING**
27 **ACCESS TO MEDICARE ACT OF 2014; AND**

28 **(II) ALLOW FOR MODIFICATIONS BASED ON A CHANGE IN SCOPE**
29 **FOR AN INDIVIDUAL CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC.**

30 **(3) THE DEPARTMENT MAY CONSIDER RATE ADJUSTMENTS ON**
31 **REQUEST BY A CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC.**

32 **(E) (1) THE DEPARTMENT SHALL ESTABLISH A QUALITY INCENTIVE**
33 **PAYMENT SYSTEM FOR A CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC**

1 THAT ACHIEVES SPECIFIED THRESHOLDS ON PERFORMANCE METRICS
2 ESTABLISHED BY THE DEPARTMENT.

3 (2) THE QUALITY INCENTIVE PAYMENT SYSTEM ESTABLISHED UNDER
4 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE IN ADDITION TO THE PROSPECTIVE
5 PAYMENT RATE ESTABLISHED UNDER SUBSECTION (D) OF THIS SECTION.

6 Article – Insurance

7 15–139.

8 (a) (1) In this section, “telehealth” means, as it relates to the delivery of health
9 care services, the use of interactive audio, video, or other telecommunications or electronic
10 technology by a licensed health care provider to deliver a health care service within the
11 scope of practice of the health care provider at a location other than the location of the
12 patient.

13 (2) “Telehealth” includes from July 1, 2021, to June 30, [2023] 2025, both
14 inclusive, an audio–only telephone conversation between a health care provider and a
15 patient that results in the delivery of a billable, covered health care service.

16 (3) “Telehealth” does not include:

17 (i) except as provided in paragraph (2) of this subsection, an
18 audio–only telephone conversation between a health care provider and a patient;

19 (ii) an electronic mail message between a health care provider and a
20 patient; or

21 (iii) a facsimile transmission between a health care provider and a
22 patient.

23 (b) This section applies to:

24 (1) insurers and nonprofit health service plans that provide hospital,
25 medical, or surgical benefits to individuals or groups on an expense–incurred basis under
26 health insurance policies or contracts that are issued or delivered in the State; and

27 (2) health maintenance organizations that provide hospital, medical, or
28 surgical benefits to individuals or groups under contracts that are issued or delivered in
29 the State.

30 (c) (1) An entity subject to this section:

(i) shall provide coverage under a health insurance policy or contract for health care services appropriately delivered through telehealth regardless of the location of the patient at the time the telehealth services are provided;

(ii) may not exclude from coverage a health care service solely because it is provided through telehealth and is not provided through an in-person consultation or contact between a health care provider and a patient; and

(iii) may not exclude from coverage or deny coverage for a behavioral health care service that is a covered benefit under a health insurance policy or contract when provided in person solely because the behavioral health care service may also be provided through a covered telehealth benefit.

(2) The health care services appropriately delivered through telehealth shall include counseling and treatment for substance use disorders and mental health conditions.

(d) (1) Subject to paragraph (2) of this subsection, an entity subject to this section:

(i) shall reimburse a health care provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that can be appropriately provided through telehealth;

(ii) is not required to:

1. reimburse a health care provider for a health care service delivered in person or through telehealth that is not a covered benefit under the health insurance policy or contract; or

2. reimburse a health care provider who is not a covered provider under the health insurance policy or contract; and

(iii) 1. may impose a deductible, copayment, or coinsurance amount on benefits for health care services that are delivered either through an in-person consultation or through telehealth;

2. may impose an annual dollar maximum as permitted by federal law; and

3. may not impose a lifetime dollar maximum.

(2) (i) From July 1, 2021, to June 30, [2023] **2025**, both inclusive, when a health care service is appropriately provided through telehealth, an entity subject to this section shall provide reimbursement in accordance with paragraph (1)(i) of this subsection on the same basis and at the same rate as if the health care service were delivered by the health care provider in person.

(ii) The reimbursement required under subparagraph (i) of this paragraph does not include:

1. clinic facility fees unless the health care service is provided by a health care provider not authorized to bill a professional fee separately for the health care service; or

2. any room and board fees.

(iii) This paragraph may not be construed to supersede the authority of the Health Services Cost Review Commission to set the appropriate rates for hospitals, including setting the hospital facility fee for hospital-provided telehealth.

(e) Subject to subsection (d)(1)(ii) of this section, an entity subject to this section may not impose as a condition of reimbursement of a covered health care service delivered through telehealth that the health care service be provided by a third-party vendor designated by the entity.

(f) An entity subject to this section may undertake utilization review, including preauthorization, to determine the appropriateness of any health care service whether the service is delivered through an in-person consultation or through telehealth if the appropriateness of the health care service is determined in the same manner.

(g) A health insurance policy or contract may not distinguish between patients in rural or urban locations in providing coverage under the policy or contract for health care services delivered through telehealth.

(h) A decision by an entity subject to this section not to provide coverage for telehealth in accordance with this section constitutes an adverse decision, as defined in § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically necessary, appropriate, or efficient.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2023. It shall remain effective for a period of 4 years and 2 months and, at the end of November 30, 2027, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect June 1, 2023. Section 1 of this Act shall remain effective for a period of 4 years and 1 month and, at the end of June 30, 2027, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.