

Chapter 290

(Senate Bill 582)

AN ACT concerning

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

FOR the purpose of establishing the Commission on Behavioral Health Care Treatment and Access to make recommendations to provide appropriate, accessible, and comprehensive behavioral health services that are available on demand to individuals in the State across the behavioral health continuum ~~that are available on demand~~; establishing the Behavioral Health Care Coordination Value-Based Purchasing Pilot Program in the Maryland Department of Health to establish and implement an intensive care coordination model using value-based purchasing in the specialty behavioral health system; requiring, ~~on or before a certain date~~, the Department to ~~submit a State plan amendment to the Centers for Medicare and Medicaid Services to establish certified community behavioral health clinics~~ apply for certain federal planning grant funds; requiring the Department to participate in a certain demonstration program; extending to a certain date the inclusion of certain audio-only telephone conversations in the definition of “telehealth” in the Maryland Medical Assistance Program and certain requirements related to the provision of reimbursement for health care services appropriately provided through telehealth by the Program and certain insurers, nonprofit health service plans, and health maintenance organizations; requiring the Maryland Health Care Commission to study and make recommendations regarding the delivery of health care services through telehealth, including payment parity for the delivery of health care services through audiovisual and audio-only telehealth technologies; and generally relating to behavioral health care treatment and access.

BY adding to

Article – Health – General

Section 13–4801 through 13–4807 to be under the new subtitle “Subtitle 48. Commission on Behavioral Health Care Treatment and Access”; and 13–4901 through 13–4907 to be under the new subtitle “Subtitle 49. Behavioral Health Care Coordination Value-Based Purchasing Pilot Program”; ~~and 15–141.5~~

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

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;

(3) ONE REPRESENTATIVE OF MARYLAND’S CONGRESSIONAL
DELEGATION;

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

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

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

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

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

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

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

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

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

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

(14) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S DESIGNEE;

(15) THE SECRETARY OF PUBLIC SAFETY AND CORRECTIONAL SERVICES, OR THE SECRETARY'S DESIGNEE;

(16) THE SPECIAL SECRETARY OF OPIOID RESPONSE, OR THE SPECIAL SECRETARY'S DESIGNEE; AND

~~(14)~~ (17) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE REPRESENTATIVE OF THE MENTAL HEALTH ASSOCIATION OF MARYLAND;

(II) ONE REPRESENTATIVE OF THE NATIONAL ALLIANCE ON MENTAL ILLNESS;

(III) ONE REPRESENTATIVE OF THE COMMUNITY BEHAVIORAL 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;

(XX) ONE REPRESENTATIVE OF A FEDERALLY QUALIFIED HEALTH CENTER;

(XXI) ONE REPRESENTATIVE OF A LOCAL BEHAVIORAL HEALTH AUTHORITY; AND

(XXII) ONE INDIVIDUAL WITH AN INTELLECTUAL DISABILITY WHO USES SELF-DIRECTED BEHAVIORAL HEALTH SERVICES.

(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 THAT ARE AVAILABLE ON DEMAND 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;**
- (4) REVIEW RECOMMENDATIONS AND REPORTS OF STATE COMMISSIONS, WORKGROUPS, OR TASK FORCES RELATED TO BEHAVIORAL HEALTH CARE SERVICES;**
- (5) CONDUCT A NEEDS ASSESSMENT ON THE STATE’S BEHAVIORAL HEALTH CARE WORKFORCE TO IDENTIFY GAPS AND MAKE RECOMMENDATIONS TO ENSURE AN ADEQUATE, CULTURALLY COMPETENT, AND DIVERSE WORKFORCE ACROSS THE BEHAVIORAL HEALTH CARE CONTINUUM;**
- (6) REVIEW TRENDS AND BEST PRACTICES FROM OTHER STATES REGARDING POLICY AND REIMBURSEMENT STRATEGIES THAT SUPPORT ACCESS TO A COMPREHENSIVE ARRAY OF SERVICES AND ENSURE QUALITY OF CARE;**
- (7) EXAMINE AND MAKE RECOMMENDATIONS RELATED TO THE BEHAVIORAL HEALTH OF THE GERIATRIC AND YOUTH POPULATIONS IN THE STATE;**
- (8) EXAMINE AND MAKE RECOMMENDATIONS TO PROVIDE APPROPRIATE AND ADEQUATE BEHAVIORAL HEALTH SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES AND COMPLEX BEHAVIORAL HEALTH NEEDS, SPECIFICALLY YOUTH;**
- (9) ASSESS THE HEALTH INFRASTRUCTURE, FACILITIES, PERSONNEL, AND SERVICES AVAILABLE FOR THE STATE’S FORENSIC POPULATION AND IDENTIFY DEFICIENCIES IN RESOURCES AND POLICIES NEEDED TO PRIORITIZE HEALTH OUTCOMES, INCREASE PUBLIC SAFETY, AND REDUCE RECIDIVISM;**
- (10) MAKE RECOMMENDATIONS ON EXPANDING BEHAVIORAL HEALTH TREATMENT ACCESS FOR THE STATE’S COURT-ORDERED POPULATION;**

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

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

(13) EXAMINE AND REVIEW THE USE OF HARM REDUCTION STRATEGIES TO FACILITATE ACCESS TO CARE; AND

(14) EXAMINE METHODS TO ASSIST CONSUMERS IN ACCESSING BEHAVIORAL HEALTH SERVICES.

13-4806.

(A) THE COMMISSION SHALL ESTABLISH THE FOLLOWING WORKGROUPS:

(1) GERIATRIC BEHAVIORAL HEALTH;

(2) YOUTH BEHAVIORAL HEALTH, INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES, AND INDIVIDUALS WITH COMPLEX BEHAVIORAL HEALTH NEEDS;

(3) CRIMINAL JUSTICE-INVOLVED BEHAVIORAL HEALTH; AND

(4) BEHAVIORAL HEALTH WORKFORCE DEVELOPMENT, INFRASTRUCTURE, COORDINATION, AND FINANCING.

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

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

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

13-4807.

(A) (1) ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2024, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE COMMISSION'S FINDINGS AND RECOMMENDATIONS, INCLUDING FUNDING AND LEGISLATIVE RECOMMENDATIONS, THAT ARE CONSISTENT WITH PROVIDING APPROPRIATE, ACCESSIBLE, AND COMPREHENSIVE BEHAVIORAL HEALTH SERVICES THAT ARE AVAILABLE ON DEMAND TO INDIVIDUALS IN THE STATE ACROSS THE BEHAVIORAL HEALTH CONTINUUM.

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

(B) THE REPORT REQUIRED ON OR BEFORE JANUARY 1, 2024, SHALL INCLUDE THE FINDINGS OF THE NEEDS ASSESSMENTS REQUIRED UNDER § 13-4805 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.

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

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

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

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

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

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

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

(E) THE DEPARTMENT SHALL:

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

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

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

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

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

2. INPATIENT HOSPITALIZATION FOR BOTH 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

15-141.2.

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

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

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

(4) “Health care provider” means:

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

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

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

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

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

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

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

(ii) “Telehealth” includes:

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

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

1. Except as provided in subparagraph (ii)2 of this paragraph, an audio-only telephone conversation;
2. An e-mail message; or
3. A facsimile transmission.

(b) The Program shall:

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

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

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

(d) The Program may not:

(1) 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; or

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

(e) The Program 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.

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

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

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

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

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

(3) (i) From July 1, 2021, to June 30, [2023] **2025**, both inclusive, when appropriately provided through telehealth, the Program shall provide reimbursement in

accordance with paragraph (1) of this subsection on the same basis and 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.

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

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

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

(i) Subject to subsection (g)(2) of this section, the Program or a managed care organization that participates in the Program 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 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.~~

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

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

- ~~(1) ALL REQUIRED SERVICES FOR INDIVIDUALS WITH MENTAL HEALTH NEEDS OR SUBSTANCE USE DISORDERS AT CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS THROUGH A DAILY BUNDLED PAYMENT~~

~~METHODOLOGY THAT IS IN ALIGNMENT WITH FEDERAL PAYMENT FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR THE CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS MEDICAID DEMONSTRATION UNDER § 223 OF THE FEDERAL PROTECTING ACCESS TO MEDICARE ACT OF 2014; AND~~

~~(2) ANY ADDITIONAL SERVICES IDENTIFIED BY THE DEPARTMENT.~~

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

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

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

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

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

~~(E) (1) THE DEPARTMENT SHALL ESTABLISH A QUALITY INCENTIVE PAYMENT SYSTEM FOR A CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINIC THAT ACHIEVES SPECIFIED THRESHOLDS ON PERFORMANCE METRICS ESTABLISHED BY THE DEPARTMENT.~~

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

Article – Insurance

15–139.

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

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

(3) “Telehealth” does not include:

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

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

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

(b) This section applies to:

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

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

(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:

(a) The Maryland Health Care Commission shall study and make recommendations regarding the delivery of health care services through telehealth, including payment parity for the delivery of health care services through audiovisual and audio-only telehealth technologies.

(b) In conducting the study required under subsection (a) of this section, the Maryland Health Care Commission shall:

(1) determine whether it is more or less costly for health care providers to deliver health care services through telehealth;

(2) determine whether the delivery of health care services through telehealth requires more or less clinical effort on the part of the health care provider;

(3) to help inform the debate on payment parity, identify the aspects of telehealth that are subject to overuse or underuse or yield greater or lower value;

(4) assess the adequacy of reimbursement for behavioral health services delivered in person and by telehealth; and

(5) address any other issues related to telehealth as determined necessary by the Commission.

(c) On or before December 1, 2024, the Maryland Health Care Commission shall submit a report on its findings and recommendations to the General Assembly, in accordance with § 2-1257 of the State Government Article.

SECTION 5. AND BE IT FURTHER ENACTED, That the Maryland Department of Health shall apply to the Substance Abuse and Mental Health Services Administration at the Center for Mental Health Services for federal planning, development, and implementation grant funds related to certified community behavioral health clinics for fiscal year 2025.

SECTION 6. AND BE IT FURTHER ENACTED, That the Maryland Department of Health shall apply to the Substance Abuse and Mental Health Services Administration at the Center for Mental Health Services for inclusion in the state certified community behavioral health clinic demonstration program for fiscal year 2026.

SECTION ~~4~~ 7. 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~~ 8. AND BE IT FURTHER ENACTED, That, except as provided in Section ~~4~~ 7 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.

Approved by the Governor, May 3, 2023.