

HOUSE BILL 1148

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3lr0459
CF SB 582

By: **Delegates Moon, Pena–Melnyk, Attar, Bagnall, Boyce, Charkoudian, Cullison, Grossman, Guyton, Healey, Kelly, Lopez, McComas, Reznik, Shetty, Smith, Solomon, Stein, Toles, Turner, and Wilkins**

Introduced and read first time: February 10, 2023

Assigned to: Health and Government Operations

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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Health – General
3 Section 15–141.2
4 Annotated Code of Maryland
5 (2019 Replacement Volume and 2022 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Insurance
8 Section 15–139
9 Annotated Code of Maryland
10 (2017 Replacement Volume and 2022 Supplement)

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

13 **Article – Health – General**

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

16 **13–4801.**

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

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

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

24 **13–4802.**

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

27 **13–4803.**

28 (A) **THE COMMISSION CONSISTS OF THE FOLLOWING MEMBERS:**

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

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

3 **(3) ONE REPRESENTATIVE OF MARYLAND'S CONGRESSIONAL**
4 **DELEGATION;**

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

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

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

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

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

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

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

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

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

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

25 **(14) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:**

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

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

1 (III) ONE REPRESENTATIVE OF THE COMMUNITY BEHAVIORAL
2 HEALTH ASSOCIATION OF MARYLAND;

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

5 (V) ONE REPRESENTATIVE OF AN ACUTE CARE HOSPITAL;

6 (VI) ONE REPRESENTATIVE OF AN INPATIENT PSYCHIATRIC
7 HOSPITAL;

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

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

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

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

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

18 (XII) ONE INDIVIDUAL WITH EXPERTISE IN HEALTH ECONOMICS;

19 (XIII) ONE REPRESENTATIVE OF A HEALTH INSURANCE CARRIER;

20 (XIV) ONE REPRESENTATIVE OF A MANAGED CARE
21 ORGANIZATION;

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

24 (XVI) ONE REPRESENTATIVE OF THE DEVELOPMENTAL
25 DISABILITY COALITION;

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

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

3 (XIX) ONE REPRESENTATIVE OF DISABILITY RIGHTS MARYLAND.

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

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

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

9 (E) A MEMBER OF THE COMMISSION:

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

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

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

16 13-4804.

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

21 13-4805.

22 THE COMMISSION SHALL:

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

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

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

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

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

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

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

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

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

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

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

29 **(12) MAKE RECOMMENDATIONS TO ENSURE THAT BEHAVIORAL**
30 **HEALTH TREATMENT IS PROVIDED IN THE APPROPRIATE SETTING, INCLUDING**
31 **METHODS TO DIVERT BEHAVIORAL HEALTH PATIENTS FROM EMERGENCY**
32 **DEPARTMENTS BY USING THE MARYLAND MENTAL HEALTH AND SUBSTANCE USE**

1 **DISORDER REGISTRY AND REFERRAL SYSTEM ESTABLISHED UNDER § 7.5-802 OF**
2 **THIS ARTICLE AND 2-1-1.**

3 **13-4806.**

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

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

6 **(2) YOUTH BEHAVIORAL HEALTH AND INDIVIDUALS WITH COMPLEX**
7 **BEHAVIORAL HEALTH NEEDS;**

8 **(3) CRIMINAL JUSTICE-INVOLVED BEHAVIORAL HEALTH; AND**

9 **(4) BEHAVIORAL HEALTH WORKFORCE DEVELOPMENT,**
10 **INFRASTRUCTURE, AND FINANCING.**

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

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

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

20 **13-4807.**

21 **(A) (1) ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2024, THE**
22 **COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §**
23 **2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE**
24 **COMMISSION'S FINDINGS AND RECOMMENDATIONS, INCLUDING FUNDING AND**
25 **LEGISLATIVE RECOMMENDATIONS.**

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

1 **(A) THE DEPARTMENT SHALL ADMINISTER THE PILOT PROGRAM.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **3. TOTAL HEALTH CARE EXPENDITURES;**

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

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

8 **13-4905.**

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

12 **13-4906.**

13 **(A) FOR EACH OF FISCAL YEAR 2025, FISCAL YEAR 2026, AND FISCAL YEAR**
14 **2027, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL AN**
15 **APPROPRIATION OF \$600,000 FOR THE PILOT PROGRAM.**

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

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

25 **13-4907.**

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

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

3 **Article – Health – General**

4 15–141.2.

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

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

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

11 (4) “Health care provider” means:

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

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

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

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

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

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

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

1 (ii) “Telehealth” includes:

2 1. Synchronous and asynchronous interactions;

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

6 3. Remote patient monitoring services.

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

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

11 2. An e-mail message; or

12 3. A facsimile transmission.

13 (b) The Program shall:

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

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

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

22 (d) The Program may not:

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

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

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

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

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

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

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

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

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

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

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

22 2. Any room and board fees.

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

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

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

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

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

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

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

12 **15-141.5.**

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

20 (1) OUTPATIENT MENTAL HEALTH AND SUBSTANCE USE SERVICES;

21 (2) 24-HOUR MOBILE CRISIS RESPONSE AND HOTLINE SERVICES;

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

24 (4) PERSON-CENTERED TREATMENT PLANNING;

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

27 (6) TARGETED CASE MANAGEMENT;

28 (7) PSYCHIATRIC REHABILITATION SERVICES;

29 (8) PEER SUPPORT AND FAMILY SUPPORTS;

30 (9) MEDICATION-ASSISTED TREATMENT;

1 **(10) ASSERTIVE COMMUNITY TREATMENT; AND**

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

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

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

13 **(1) ALL REQUIRED SERVICES FOR INDIVIDUALS WITH MENTAL**
14 **HEALTH NEEDS OR SUBSTANCE USE DISORDERS AT CERTIFIED COMMUNITY**
15 **BEHAVIORAL HEALTH CLINICS THROUGH A DAILY BUNDLED PAYMENT**
16 **METHODOLOGY THAT IS IN ALIGNMENT WITH FEDERAL PAYMENT FROM THE**
17 **CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR THE CERTIFIED**
18 **COMMUNITY BEHAVIORAL HEALTH CLINICS MEDICAID DEMONSTRATION UNDER §**
19 **223 OF THE FEDERAL PROTECTING ACCESS TO MEDICARE ACT OF 2014; AND**

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

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

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

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

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

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

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

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

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

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

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

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

20 (ii) is not required to:

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

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

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

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

31 3. may not impose a lifetime dollar maximum.

32 (2) (i) From July 1, 2021, to June 30, [2023] **2025**, both inclusive, when
33 a health care service is appropriately provided through telehealth, an entity subject to this

1 section shall provide reimbursement in accordance with paragraph (1)(i) of this subsection
2 on the same basis and at the same rate as if the health care service were delivered by the
3 health care provider in person.

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

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

9 2. any room and board fees.

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

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

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

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

24 (h) A decision by an entity subject to this section not to provide coverage for
25 telehealth in accordance with this section constitutes an adverse decision, as defined in §
26 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically
27 necessary, appropriate, or efficient.

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

32 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
33 4 of this Act, this Act shall take effect June 1, 2023. Section 1 of this Act shall remain
34 effective for a period of 4 years and 1 month and, at the end of June 30, 2027, Section 1 of
35 this Act, with no further action required by the General Assembly, shall be abrogated and
36 of no further force and effect.