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SENATE BILL NO. 1301

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend the Code of Virginia by adding a section numbered 32.1-137.2:1, relating to managed care health insurance plan licensees; network adequacy for mental health services.

Patrons—Deeds and Favola; Delegate: Glass

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 32.1-137.2:1 as follows:

§ 32.1-137.2:1. Network adequacy; mental health care services.

A. Each managed care health insurance plan licensee shall:

1. Provide a sufficient number and mix of services, specialists, and practice sites to meet covered persons' mental health care needs, including providers serving high-risk populations or those specializing in the treatment of costly conditions, and its contractual obligations with reasonable promptness.

2. Ensure that covered persons have telephone access 24 hours a day, seven days a week, to responsible and knowledgeable mental health care practitioners capable of assessing the covered persons' conditions and, as necessary, providing for appropriate services.

3. Incorporate strategies into its access procedures to facilitate utilization of the managed care health insurance plan licensee's mental health care services by covered persons with physical, mental, language, or cultural barriers.

B. A managed care health insurance plan licensee shall cover out-of-network mental health care services to a covered person if any of the following conditions are met:

1. The managed care health insurance plan licensee does not have a mental health care provider within its network capable of providing mental health care services to the covered person.

2. The majority of the managed care health insurance plan licensee's mental health care providers within 25 miles of a covered person or, if appropriate for the covered person, available via telemedicine who have experience treating the general age group of the covered person are no longer accepting new patients or have wait-lists to receive mental health care services.

3. The managed care health insurance plan licensee does not have a mental health care provider within 25 miles of a covered person or, if appropriate for the covered person, available via telemedicine who (i) has experience or expertise in treating patients who share the emotionally distressing experiences or demographics, including demographics related to the groups protected from unlawful discrimination by subdivision B 1 of § 2.2-3900, of the covered person seeking mental health care services and (ii) is capable of providing such services within the next 31 days. For the purposes of this subdivision, "emotionally distressing experiences" includes victimization by sexual violence, domestic abuse, sex trafficking, child pornography, physical or emotional harassment, or any other Class 1 or Class 2 felony conviction.

A managed care health insurance plan licensee may require (a) a covered person to state that the mental health care services are related to an emotionally distressing experience; (b) a statement verifying that a covered person is seeking mental health care services related to an emotionally distressing experience from a law-enforcement official, a social worker, a family-services specialist, a mental health professional, a school counselor, any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, or any person employed in the nursing profession; or (c) verification that the mental health care services provided were related to an emotionally distressing experience from the out-of-network mental health care professional from whom the covered person received such services. No managed care health insurance plan licensee shall require proof of criminal proceedings to verify that a covered person seeks mental health care services related to an emotionally distressing experience.

C. For any covered person seeking mental health care services that has self-harm or suicidal ideation, a managed care health insurance plan licensee shall cover any associated out-of-network care such that the covered person shall not be responsible for any additional costs incurred by the managed care health insurance plan licensee for such services other than any applicable copayment, coinsurance, or deductible. A managed care health insurance plan licensee shall accept verification from the associated out-of-network provider that the mental health care services provided were related to the covered person's self-harm or suicidal ideation. No managed care health insurance plan licensee shall

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impose any additional requirements to verify that the covered person was seeking care related to self-harm or suicidal ideation.