

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 273

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT AND THE NEW MEXICO INSURANCE CODE TO PROHIBIT INSURERS FROM APPLYING LIMITATIONS ON COVERAGE FOR MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES THAT ARE MORE RESTRICTIVE THAN LIMITATIONS ON COVERAGE FOR OTHER TYPES OF HEALTH CARE SERVICES; PROVIDING FOR INSURER COMPLIANCE; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in Sections 1 through 9 of this 2023 act:

A. "generally recognized standards" means standards of care and clinical practice established by evidence-based

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1 sources, including clinical practice guidelines and
2 recommendations from mental health and substance use disorder
3 care provider professional associations and relevant federal
4 government agencies, that are generally recognized by providers
5 practicing in relevant clinical specialties, including:

- 6 (1) psychiatry;
- 7 (2) psychology;
- 8 (3) social work;
- 9 (4) clinical counseling;
- 10 (5) addiction medicine and counseling; or
- 11 (6) family and marriage counseling; and

12 B. "mental health or substance use disorder
13 services" means:

14 (1) professional services, including inpatient
15 and outpatient services and prescription drugs, provided in
16 accordance with generally recognized standards of care for the
17 identification, prevention, treatment, minimization of
18 progression, habilitation and rehabilitation of conditions or
19 disorders listed in the current edition of the American
20 psychiatric association's *Diagnostic and Statistical Manual of*
21 *Mental Disorders*, including substance use disorder; or

22 (2) professional talk therapy services,
23 provided in accordance with generally recognized standards of
24 care, provided by a marriage and family therapist licensed
25 pursuant to the Counseling and Therapy Practice Act."

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1 SECTION 2. A new section of the Health Care Purchasing
2 Act is enacted to read:

3 "[NEW MATERIAL] BENEFITS REQUIRED.--Group coverage,
4 including any form of self-insurance, offered, issued or
5 renewed under the Health Care Purchasing Act shall provide
6 coverage for all mental health or substance use disorder
7 services required by generally recognized standards of care."

8 SECTION 3. A new section of the Health Care Purchasing
9 Act is enacted to read:

10 "[NEW MATERIAL] PARITY FOR COVERAGE OF MENTAL HEALTH AND
11 SUBSTANCE USE DISORDER SERVICES.--

12 A. The office of superintendent of insurance shall
13 ensure that an insurer complies with federal and state laws,
14 rules and regulations applicable to coverage for mental health
15 or substance use disorder services.

16 B. An insurer shall not impose quantitative
17 treatment limitations, financial restrictions, limitations or
18 requirements on the provision of mental health or substance use
19 disorder services that are more restrictive than the
20 predominant restrictions, limitations or requirements that are
21 imposed on substantially all of the coverage of benefits for
22 other conditions.

23 C. An insurer shall not impose non-quantitative
24 treatment limitations for the treatment of mental health or
25 substance use disorders or conditions unless factors, including

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underscoring material = new
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1 the processes, strategies or evidentiary standards used in
2 applying the non-quantitative treatment limitation, as written
3 and in operation, are comparable to and are applied no more
4 restrictively than the factors used in applying the limitation
5 to medical or surgical benefits in the classification."

6 SECTION 4. A new section of the Health Care Purchasing
7 Act is enacted to read:

8 "[NEW MATERIAL] PROVIDER NETWORK ADEQUACY.--

9 A. An insurer shall maintain an adequate provider
10 network to provide mental health and substance use disorder
11 services.

12 B. The superintendent of insurance shall ensure
13 access to mental health and substance use disorder services
14 providers, including parity with medical and surgical services
15 provider access, through regulation and review of claims
16 processing, provider reimbursement procedures, network adequacy
17 and provider reimbursement rate adequacy.

18 C. An insurer shall ensure that the process by
19 which reimbursement rates for mental health and substance use
20 disorder services are determined is comparable and no more
21 stringent than the process for reimbursement of medical or
22 surgical benefits. In developing provider reimbursement rates,
23 an insurer shall demonstrate that it has performed a
24 comparability analysis of provider:

25 (1) reimbursement rates in surrounding states;

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underscored material = new
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1 (2) reimbursement rates between mental health
2 and substance use disorder providers and medical or surgical
3 providers; and

4 (3) credentialing processes for mental health
5 and substance use disorder providers and medical or surgical
6 providers.

7 D. An insurer shall undertake all efforts,
8 including increasing provider reimbursement rates through the
9 processes and strategies described in Subsection C of this
10 section, to ensure state-mandated network adequacy for the
11 provision of mental health or substance use disorder services.

12 E. When in-network access to mental health or
13 substance use disorder services is not reasonably available, an
14 insurer shall provide access to out-of-network services with
15 the same cost-sharing obligations to the insured as those
16 required for in-network services."

17 SECTION 5. A new section of the Health Care Purchasing
18 Act is enacted to read:

19 "[NEW MATERIAL] UTILIZATION REVIEW OF MENTAL HEALTH OR
20 SUBSTANCE USE DISORDER SERVICES.--

21 A. An insurer shall, at least monthly, review and
22 update the insurer's utilization review process to reflect the
23 most recent evidence and generally recognized standards of
24 care.

25 B. When performing a utilization review of mental

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underscored material = new
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1 health or substance use disorder services, including level of
2 care placement, continued stay, transfer and discharge, an
3 insurer shall apply criteria in accordance with generally
4 recognized standards of care.

5 C. An insurer shall provide utilization review
6 training to staff and contractors undertaking activities
7 related to utilization review.

8 D. An insurer shall:

9 (1) develop utilization review policies
10 regarding quantitative and non-quantitative limitations for
11 mental health and substance use disorder services coverage that
12 are no more restrictive than the utilization review policies
13 regarding quantitative and non-quantitative limitations for
14 medical and surgical care; and

15 (2) make utilization review policies available
16 to providers or plan members."

17 SECTION 6. A new section of the Health Care Purchasing
18 Act is enacted to read:

19 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
20 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--An insurer
21 shall not exclude provider proscribed coverage for mental
22 health or substance use disorder services otherwise included in
23 its coverage when:

24 A. it is available pursuant to federal or state law
25 for individuals with disabilities;

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1 B. it is otherwise ordered by a court or
2 administrative agency;

3 C. it is available to an insured through a public
4 benefit program; or

5 D. an insured has a concurrent diagnosis."

6 SECTION 7. A new section of the Health Care Purchasing
7 Act is enacted to read:

8 "[NEW MATERIAL] LEVEL OF CARE DETERMINATIONS FOR THE
9 PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER
10 SERVICES.--

11 A. An insurer shall provide coverage for all in-
12 network mental health or substance use disorder services,
13 consistent with generally recognized standards of care,
14 including placing an insured into a medically necessary level
15 of care.

16 B. Changes in level and duration of care shall be
17 determined by the insured's provider in consultation with the
18 insurer.

19 C. Level of care determinations shall include
20 placement of an insured into a facility that provides
21 detoxification services, a hospital, an inpatient
22 rehabilitation treatment facility or an outpatient treatment
23 program.

24 D. Level of care services for an insured with a
25 mental health or substance use disorder shall be based on the

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underscoring material = new
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1 mental health or substance use disorder needs of the insured
2 rather than arbitrary time limits."

3 SECTION 8. A new section of the Health Care Purchasing
4 Act is enacted to read:

5 "[NEW MATERIAL] COORDINATION OF CARE.--An insurer may
6 facilitate communication between mental health or substance use
7 disorder services providers and the insured's designated
8 primary care provider to ensure coordination of care to prevent
9 any conflicts of care that could be harmful to the insured."

10 SECTION 9. A new section of the Health Care Purchasing
11 Act is enacted to read:

12 "[NEW MATERIAL] CONFIDENTIALITY PROVISIONS.--An insurer
13 shall protect the confidentiality of an insured receiving
14 mental health or substance use disorder services."

15 SECTION 10. A new section of the Health Care Purchasing
16 Act is enacted to read:

17 "[NEW MATERIAL] EXCEPTIONS.--The provisions of Sections 1
18 through 9 of this 2023 act do not apply to short-term plans
19 subject to the Short-Term Health Plan and Excepted Benefit
20 Act."

21 SECTION 11. A new section of the Prior Authorization Act
22 is enacted to read:

23 "[NEW MATERIAL] PRIOR AUTHORIZATION RESCINDING OR
24 MODIFYING PROHIBITED.--A health insurer shall not rescind or
25 modify an authorization for mental health or substance use

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1 disorder services that has been authorized, after the provider
2 renders the services pursuant to a determination of medical
3 necessity, in good faith, except for cases of fraud or
4 violation of the provider's contract with the health insurer."

5 SECTION 12. A new section of the Prior Authorization Act
6 is enacted to read:

7 "[NEW MATERIAL] PRIOR AUTHORIZATION OR REFERRAL
8 REQUIREMENT FOR IN-NETWORK MENTAL HEALTH OR SUBSTANCE USE
9 DISORDER SERVICES COVERAGE PROHIBITED.--

10 A. A health insurer shall not require prior
11 authorization and referral requirements for the following
12 mental health or substance use disorder services:

13 (1) acute or immediately necessary care;

14 (2) acute episodes of chronic mental health or
15 substance use disorder conditions; or

16 (3) initial in-network inpatient or outpatient
17 substance use treatment services.

18 B. Prior authorization shall be determined in
19 consultation with the insured's mental health or substance use
20 disorder services provider for:

21 (1) continuation of services in chronic or
22 stable conditions; or

23 (2) additional services.

24 C. Except in cases in which the insured terminates
25 a plan, a health insurer shall not terminate coverage of

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1 services without consultation with the insured's mental health
2 or substance use disorder services provider.

3 D. A health insurer shall not limit coverage for
4 mental health or substance use disorder services up to the
5 point of relief of presenting signs and symptoms or to short-
6 term care or acute treatment.

7 E. The duration of coverage for an insured with a
8 mental health or substance use disorder shall be based on the
9 mental health or substance use disorder needs of the insured
10 rather than on arbitrary time limits.

11 F. A health insurer may require a mental health or
12 substance use disorder services provider to provide
13 notification to the health insurer after the initiation of in-
14 network mental health or substance use disorder treatment
15 pursuant to Subsection A of this section.

16 G. If a provider fails to notify a health insurer
17 pursuant to Subsection F of this section, a health insurer may
18 perform appropriate utilization review.

19 H. A health insurer may require a mental health or
20 substance use disorder services provider to develop and submit
21 a treatment plan for an insured receiving in-network services
22 in a manner that is compliant with federal law."

23 SECTION 13. A new section of the Prior Authorization Act
24 is enacted to read:

25 "[NEW MATERIAL] PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS

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1 OR STEP THERAPY FOR SUBSTANCE USE DISORDER PROHIBITED.--

2 A. Coverage for medication approved by the federal
3 food and drug administration that is prescribed for the
4 treatment of a substance use disorder, pursuant to a medical
5 necessity determination, shall not be subject to prior
6 authorization, except in cases in which a generic version is
7 available.

8 B. A health insurer shall not impose step therapy
9 requirements before authorizing coverage for medication
10 approved by the federal food and drug administration that is
11 prescribed for the treatment of a substance use disorder,
12 pursuant to a medical necessity determination, except in cases
13 in which a generic version is available."

14 SECTION 14. A new section of Chapter 59A, Article 23 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] DEFINITIONS.--As used in Sections 14
17 through 22 of this 2023 act:

18 A. "generally recognized standards" means standards
19 of care and clinical practice established by evidence-based
20 sources, including clinical practice guidelines and
21 recommendations from mental health and substance use disorder
22 care provider professional associations and relevant federal
23 government agencies, that are generally recognized by providers
24 practicing in relevant clinical specialties, including:

25 (1) psychiatry;

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- 1 (2) psychology;
- 2 (3) social work;
- 3 (4) clinical counseling;
- 4 (5) addiction medicine and counseling; or
- 5 (6) family and marriage counseling; and

6 B. "mental health or substance use disorder
7 services" means:

8 (1) professional services, including inpatient
9 and outpatient services and prescription drugs, provided in
10 accordance with generally recognized standards of care for the
11 identification, prevention, treatment, minimization of
12 progression, habilitation and rehabilitation of conditions or
13 disorders listed in the current edition of the American
14 psychiatric association's *Diagnostic and Statistical Manual of*
15 *Mental Disorders*, including substance use disorder; or

16 (2) professional talk therapy services,
17 provided in accordance with generally recognized standards of
18 care, provided by a marriage and family therapist licensed
19 pursuant to the Counseling and Therapy Practice Act."

20 SECTION 15. A new section of Chapter 59A, Article 23 NMSA
21 1978 is enacted to read:

22 "[NEW MATERIAL] BENEFITS REQUIRED.--A group health plan,
23 other than a small group health plan or a blanket health
24 insurance policy or contract that is delivered, issued for
25 delivery or renewed in this state shall provide coverage for

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1 all mental health or substance use disorder services required
2 by generally recognized standards of care."

3 SECTION 16. A new section of Chapter 59A, Article 23 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] PARITY FOR COVERAGE OF MENTAL HEALTH OR
6 SUBSTANCE USE DISORDER SERVICES.--

7 A. The office of superintendent of insurance shall
8 ensure that an insurer complies with federal and state laws,
9 rules and regulations applicable to coverage for mental health
10 or substance use disorder services.

11 B. An insurer shall not impose quantitative
12 treatment limitations, financial restrictions, limitations or
13 requirements on the provision of mental health or substance use
14 disorder services that are more restrictive than the
15 predominant restrictions, limitations or requirements that are
16 imposed on substantially all of the coverage of benefits for
17 other conditions.

18 C. An insurer shall not impose non-quantitative
19 treatment limitations for the treatment of mental health or
20 substance use disorders or conditions unless factors, including
21 the processes, strategies or evidentiary standards used in
22 applying the non-quantitative treatment limitation, as written
23 and in operation, are comparable to and are applied no more
24 restrictively than the factors used in applying the limitation
25 with respect to medical or surgical benefits in the

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1 classification."

2 SECTION 17. A new section of Chapter 59A, Article 23 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] PROVIDER NETWORK ADEQUACY.--

5 A. An insurer shall maintain an adequate provider
6 network to provide mental health or substance use disorder
7 services.

8 B. The superintendent shall ensure access to mental
9 health or substance use disorder services providers, including
10 parity with medical and surgical services provider access,
11 through regulation and review of claims processing, provider
12 reimbursement procedures, network adequacy and provider
13 reimbursement rate adequacy.

14 C. An insurer shall ensure that the process by
15 which reimbursement rates for mental health and substance use
16 disorder services are determined is comparable and no more
17 stringent than the process for reimbursement of medical or
18 surgical benefits. In developing provider reimbursement rates,
19 an insurer shall demonstrate that it has performed a
20 comparability analysis of provider:

- 21 (1) reimbursement rates in surrounding states;
22 (2) reimbursement rates between mental health
23 and substance use disorder providers and medical or surgical
24 providers; and
25 (3) credentialing processes for mental health

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1 and substance use disorder providers and medical or surgical
2 providers.

3 D. An insurer shall undertake all efforts,
4 including increasing provider reimbursement rates through the
5 processes and strategies described in Subsection C of this
6 section, to ensure state-mandated network adequacy for the
7 provision of mental health or substance use disorder services.

8 E. When in-network access to mental health or
9 substance use disorder services is not reasonably available, an
10 insurer shall provide access to out-of-network services with
11 the same cost-sharing obligations to the insured as those
12 required for in-network services."

13 SECTION 18. A new section of Chapter 59A, Article 23 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] UTILIZATION REVIEW OF MENTAL HEALTH OR
16 SUBSTANCE USE DISORDER SERVICES.--

17 A. An insurer shall, at least monthly, review and
18 update the insurer's utilization review process to reflect the
19 most recent evidence and generally recognized standards of
20 care.

21 B. When performing a utilization review of mental
22 health or substance use disorder services, including level of
23 care placement, continued stay, transfer and discharge, an
24 insurer shall apply criteria in accordance with generally
25 recognized standards of care.

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1 C. An insurer shall provide utilization review
2 training to staff and contractors undertaking activities
3 related to utilization review.

4 D. An insurer shall:

5 (1) develop utilization review policies
6 regarding quantitative and non-quantitative limitations for
7 mental health or substance use disorder services coverage that
8 are no more restrictive than the utilization review policies
9 regarding quantitative and non-quantitative limitations for
10 medical and surgical care; and

11 (2) make utilization review policies available
12 to providers or plan members."

13 SECTION 19. A new section of Chapter 59A, Article 23 NMSA
14 1978 is enacted to read:

15 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
16 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--An insurer
17 shall not exclude provider proscribed coverage for mental
18 health or substance use disorder services otherwise included in
19 its coverage when:

20 A. it is available pursuant to federal or state law
21 for individuals with disabilities;

22 B. it is otherwise ordered by a court or
23 administrative agency;

24 C. it is available to an insured through a public
25 benefit program; or

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1 D. an insured has a concurrent diagnosis."

2 SECTION 20. A new section of Chapter 59A, Article 23 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] LEVEL OF CARE DETERMINATIONS FOR THE
5 PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER
6 SERVICES.--

7 A. An insurer shall provide coverage for all in-
8 network mental health or substance use disorder services,
9 consistent with generally recognized standards of care,
10 including placing an insured into a medically necessary level
11 of care.

12 B. Changes in level and duration of care shall be
13 determined by the insured's provider in consultation with the
14 insurer.

15 C. Level of care determinations shall include
16 placement of an insured into a facility that provides
17 detoxification services, a hospital, an inpatient
18 rehabilitation treatment facility or an outpatient treatment
19 program.

20 D. Level of care services for an insured with a
21 mental health or substance use disorder shall be based on the
22 mental health or substance use disorder needs of the insured
23 rather than arbitrary time limits."

24 SECTION 21. A new section of Chapter 59A, Article 23 NMSA
25 1978 is enacted to read:

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underscored material = new
~~[bracketed material]~~ = delete

1 "[NEW MATERIAL] COORDINATION OF CARE.--At the request of
2 an insured, an insurer may facilitate communication between
3 mental health or substance use disorder services providers and
4 the insured's designated primary care provider to ensure
5 coordination of care to prevent any conflicts of care that
6 could be harmful to the insured."

7 SECTION 22. A new section of Chapter 59A, Article 23 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] CONFIDENTIALITY PROVISIONS.--An insurer
10 shall protect the confidentiality of an insured receiving
11 mental health or substance use disorder services."

12 SECTION 23. A new section of Chapter 59A, Article 23 NMSA
13 1978 is enacted to read:

14 "[NEW MATERIAL] EXCEPTIONS.--The provisions of Sections 14
15 through 22 of this 2023 act do not apply to short-term plans
16 subject to the Short-Term Health Plan and Excepted Benefit
17 Act."

18 SECTION 24. Section 59A-23E-18 NMSA 1978 (being Laws
19 2000, Chapter 6, Section 1, as amended) is amended to read:

20 "59A-23E-18. REQUIREMENT FOR MENTAL HEALTH BENEFITS IN AN
21 INDIVIDUAL OR GROUP HEALTH PLAN, OR GROUP HEALTH INSURANCE
22 OFFERED IN CONNECTION WITH THE PLAN, FOR A PLAN YEAR OF AN
23 EMPLOYER.--

24 A. A group health plan or group or individual
25 health insurance shall not impose treatment limitations or

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1 financial restrictions, limitations or requirements on the
 2 provision of mental health benefits that are more restrictive
 3 than the predominant restrictions, limitations or requirements
 4 that are imposed on coverage of benefits for other conditions.

5 ~~[B. A group health plan or group or individual~~
 6 ~~health insurance offered in connection with that plan, may:~~

7 ~~(1) require pre-admission screening prior to~~
 8 ~~the authorization of mental health benefits whether inpatient~~
 9 ~~or outpatient; or~~

10 ~~(2) apply limitations that restrict mental~~
 11 ~~health benefits provided under the plan to those that are~~
 12 ~~medically necessary.~~

13 ~~G.] B.~~ As used in this section, "mental health
 14 benefits" means mental health benefits as described in the
 15 group health plan or group health insurance offered in
 16 connection with the plan ~~[but does not include benefits with~~
 17 ~~respect to treatment of substance abuse, chemical dependency or~~
 18 ~~gambling addiction]."~~

19 **SECTION 25.** A new section of the Health Maintenance
 20 Organization Law is enacted to read:

21 "[NEW MATERIAL] DEFINITIONS.--As used in Sections 25
 22 through 33 of this 2023 act:

23 A. "generally recognized standards" means standards
 24 of care and clinical practice established by evidence-based
 25 sources, including clinical practice guidelines and

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1 recommendations from mental health and substance use disorder
2 care provider professional associations and relevant federal
3 government agencies, that are generally recognized by providers
4 practicing in relevant clinical specialties, including:

- 5 (1) psychiatry;
- 6 (2) psychology;
- 7 (3) social work;
- 8 (4) clinical counseling;
- 9 (5) addiction medicine and counseling; or
- 10 (6) family and marriage counseling; and

11 B. "mental health or substance use disorder
12 services" means:

13 (1) professional services, including inpatient
14 and outpatient services and prescription drugs, provided in
15 accordance with generally recognized standards of care for the
16 identification, prevention, treatment, minimization of
17 progression, habilitation and rehabilitation of conditions or
18 disorders listed in the current edition of the American
19 psychiatric association's *Diagnostic and Statistical Manual of*
20 *Mental Disorders*, including substance use disorder; or

21 (2) professional talk therapy services,
22 provided in accordance with generally recognized standards of
23 care, provided by a marriage and family therapist licensed
24 pursuant to the Counseling and Therapy Practice Act."

25 SECTION 26. A new section of the Health Maintenance

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1 Organization Law is enacted to read:

2 "[~~NEW MATERIAL~~] BENEFITS REQUIRED.--A health maintenance
3 organization, other than a small group health maintenance
4 organization contract that is delivered, issued for delivery or
5 renewed in this state, shall provide coverage for all mental
6 health or substance use disorder services required by generally
7 recognized standards of care."

8 SECTION 27. A new section of the Health Maintenance
9 Organization Law is enacted to read:

10 "[~~NEW MATERIAL~~] PARITY FOR COVERAGE OF MENTAL HEALTH OR
11 SUBSTANCE USE DISORDER SERVICES.--

12 A. The office of superintendent of insurance shall
13 ensure that a carrier complies with federal and state laws,
14 rules and regulations applicable to coverage for mental health
15 or substance use disorder services.

16 B. A carrier shall not impose quantitative
17 treatment limitations, financial restrictions, limitations or
18 requirements on the provision of mental health or substance use
19 disorder services that are more restrictive than the
20 predominant restrictions, limitations or requirements that are
21 imposed on substantially all of the coverage of benefits for
22 other conditions.

23 C. A carrier shall not impose non-quantitative
24 treatment limitations for the treatment of mental health or
25 substance use disorders or conditions unless factors, including

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1 the processes, strategies or evidentiary standards used in
2 applying the non-quantitative treatment limitation, as written
3 and in operation, are comparable to and are applied no more
4 restrictively than the factors used in applying the limitation
5 with respect to medical or surgical benefits in the
6 classification."

7 SECTION 28. A new section of the Health Maintenance
8 Organization Law is enacted to read:

9 "[NEW MATERIAL] PROVIDER NETWORK ADEQUACY.--

10 A. A carrier shall maintain an adequate provider
11 network to provide mental health or substance use disorder
12 services.

13 B. The superintendent shall ensure access to mental
14 health or substance use disorder services providers, including
15 parity with medical and surgical services provider access,
16 through regulation and review of claims processing, provider
17 reimbursement procedures, network adequacy and provider
18 reimbursement rate adequacy.

19 C. A carrier shall ensure that the process by which
20 reimbursement rates for mental health and substance use
21 disorder services are determined is comparable and no more
22 stringent than the process for reimbursement of medical or
23 surgical benefits. In developing provider reimbursement rates,
24 a carrier shall demonstrate that it has performed a
25 comparability analysis of provider:

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1 (1) reimbursement rates in surrounding states;

2 (2) reimbursement rates between mental health
3 and substance use disorder providers and medical or surgical
4 providers; and

5 (3) credentialing processes for mental health
6 and substance use disorder providers and medical or surgical
7 providers.

8 D. A carrier shall undertake all efforts, including
9 increasing provider reimbursement rates through the processes
10 and strategies described in Subsection C of this section, to
11 ensure state-mandated network adequacy for the provision of
12 mental health or substance use disorder services.

13 E. When in-network access to mental health or
14 substance use disorder services are not reasonably available, a
15 carrier shall provide access to out-of-network services with
16 the same cost-sharing obligations to an enrollee as those
17 required for in-network services."

18 SECTION 29. A new section of the Health Maintenance
19 Organization Law is enacted to read:

20 "[NEW MATERIAL] UTILIZATION REVIEW OF MENTAL HEALTH OR
21 SUBSTANCE USE DISORDER SERVICES.--

22 A. A carrier shall, at least monthly, review and
23 update the carrier's utilization review process to reflect the
24 most recent evidence and generally recognized standards of
25 care.

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underscored material = new
~~[bracketed material]~~ = delete

1 B. When performing a utilization review of mental
2 health or substance use disorder services, including level of
3 care placement, continued stay, transfer and discharge, a
4 carrier shall apply criteria in accordance with generally
5 recognized standards of care.

6 C. A carrier shall provide utilization review
7 training to staff and contractors undertaking activities
8 related to utilization review.

9 D. A carrier shall:

10 (1) develop utilization review policies
11 regarding quantitative and non-quantitative limitations for
12 mental health or substance use disorder services coverage that
13 are no more restrictive than the utilization review policies
14 regarding quantitative and non-quantitative limitations for
15 medical and surgical care; and

16 (2) make utilization review policies available
17 to providers or enrollees."

18 **SECTION 30.** A new section of the Health Maintenance
19 Organization Law is enacted to read:

20 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
21 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--A carrier
22 shall not exclude provider proscribed coverage for mental
23 health or substance use disorder services otherwise included in
24 its coverage when:

25 A. it is available pursuant to federal or state law

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1 for individuals with disabilities;

2 B. it is otherwise ordered by a court or
3 administrative agency;

4 C. it is available to an enrollee through a public
5 benefit program; or

6 D. an enrollee has a concurrent diagnosis."

7 SECTION 31. A new section of the Health Maintenance
8 Organization Law is enacted to read:

9 "[NEW MATERIAL] LEVEL OF CARE DETERMINATIONS FOR THE
10 PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER
11 SERVICES.--

12 A. A carrier shall provide coverage for all in-
13 network mental health or substance use disorder services,
14 consistent with generally recognized standards of care,
15 including placing an enrollee into a medically necessary level
16 of care.

17 B. Changes in level and duration of care shall be
18 determined by the enrollee's provider in consultation with the
19 carrier.

20 C. Level of care determinations shall include
21 placement of an enrollee into a facility that provides
22 detoxification services, a hospital, an inpatient
23 rehabilitation treatment facility or an outpatient treatment
24 program.

25 D. Level of care services for an enrollee with a

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underscored material = new
~~[bracketed material] = delete~~

1 mental health or substance use disorder shall be based on the
2 mental health or substance use disorder needs of the enrollee
3 rather than arbitrary time limits."

4 SECTION 32. A new section of the Health Maintenance
5 Organization Law is enacted to read:

6 "[NEW MATERIAL] COORDINATION OF CARE.--At the request of
7 an enrollee, a carrier may facilitate communication between
8 mental health or substance use disorder services providers and
9 the enrollee's designated primary care provider to ensure
10 coordination of care to prevent any conflicts of care that
11 could be harmful to the enrollee."

12 SECTION 33. A new section of the Health Maintenance
13 Organization Law is enacted to read:

14 "[NEW MATERIAL] CONFIDENTIALITY PROVISIONS.--A carrier
15 shall protect the confidentiality of an enrollee receiving
16 mental health or substance use disorder treatment."

17 SECTION 34. A new section of the Health Maintenance
18 Organization Law is enacted to read:

19 "[NEW MATERIAL] EXCEPTIONS.--The provisions of Sections 25
20 through 33 of this 2023 act do not apply to short-term plans
21 subject to the Short-Term Health Plan and Excepted Benefit
22 Act."

23 SECTION 35. A new section of the Nonprofit Health Care
24 Plan Law is enacted to read:

25 "[NEW MATERIAL] DEFINITIONS.--As used in Sections 35

1 through 43 of this 2023 act:

2 A. "generally recognized standards" means standards
3 of care and clinical practice, established by evidence-based
4 sources, including clinical practice guidelines and
5 recommendations from mental health and substance use disorder
6 care provider professional associations and relevant federal
7 government agencies, that are generally recognized by providers
8 practicing in relevant clinical specialties, including:

9 (1) psychiatry;

10 (2) psychology;

11 (3) social work;

12 (4) clinical counseling;

13 (5) addiction medicine and counseling; or

14 (6) family and marriage counseling; and

15 B. "mental health or substance use disorder
16 services" means:

17 (1) professional services, including inpatient
18 and outpatient services and prescription drugs, provided in
19 accordance with generally recognized standards of care for the
20 identification, prevention, treatment, minimization of
21 progression, habilitation and rehabilitation of conditions or
22 disorders listed in the current edition of the American
23 psychiatric association's *Diagnostic and Statistical Manual of*
24 *Mental Disorders*, including substance use disorder; or

25 (2) professional talk therapy services,

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1 provided in accordance with generally recognized standards of
2 care, provided by a marriage and family therapist licensed
3 pursuant to the Counseling and Therapy Practice Act."

4 SECTION 36. A new section of the Nonprofit Health Care
5 Plan Law is enacted to read:

6 "[NEW MATERIAL] BENEFITS REQUIRED.--A health care plan,
7 other than a small health care plan, that is delivered, issued
8 for delivery or renewed in this state shall provide coverage
9 for all mental health or substance use disorder services
10 required by generally recognized standards of care."

11 SECTION 37. A new section of the Nonprofit Health Care
12 Plan Law is enacted to read:

13 "[NEW MATERIAL] PARITY FOR COVERAGE OF MENTAL HEALTH OR
14 SUBSTANCE USE DISORDER SERVICES.--

15 A. The office of superintendent of insurance shall
16 ensure that a health care plan complies with federal and state
17 laws, rules and regulations applicable to coverage for mental
18 health or substance use disorder services.

19 B. A health care plan shall not impose quantitative
20 treatment limitations, financial restrictions, limitations or
21 requirements on the provision of mental health or substance use
22 disorder services that are more restrictive than the
23 predominant restrictions, limitations or requirements that are
24 imposed on substantially all of the coverage of benefits for
25 other conditions.

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1 C. A health care plan shall not impose non-
 2 quantitative treatment limitations for the treatment of mental
 3 health or substance use disorders or conditions unless factors,
 4 including the processes, strategies or evidentiary standards
 5 used in applying the non-quantitative treatment limitation, as
 6 written and in operation, are comparable to and are applied no
 7 more restrictively than the factors used in applying the
 8 limitation with respect to medical or surgical benefits in the
 9 classification."

10 **SECTION 38.** A new section of the Nonprofit Health Care
 11 Plan Law is enacted to read:

12 "[NEW MATERIAL] PROVIDER NETWORK ADEQUACY.--

13 A. A health care plan shall maintain an adequate
 14 provider network to provide mental health or substance use
 15 disorder services.

16 B. The superintendent shall ensure access to mental
 17 health or substance use disorder services providers, including
 18 parity with medical and surgical services provider access,
 19 through regulation and review of claims processing, provider
 20 reimbursement procedures, network adequacy and provider
 21 reimbursement rate adequacy.

22 C. A health care plan shall ensure that the process
 23 by which reimbursement rates for mental health and substance
 24 use disorder services are determined is comparable and no more
 25 stringent than the process for reimbursement of medical or

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1 surgical benefits. In developing provider reimbursement rates,
2 a health care plan shall demonstrate that it has performed a
3 comparability analysis of provider:

4 (1) reimbursement rates in surrounding states;

5 (2) reimbursement rates between mental health
6 and substance use disorder providers and medical or surgical
7 providers; and

8 (3) credentialing processes for mental health
9 and substance use disorder providers and medical or surgical
10 providers.

11 D. A health care plan shall undertake all efforts,
12 including increasing provider reimbursement rates through the
13 processes and strategies described in Subsection C of this
14 section, to ensure state-mandated network adequacy for the
15 provision of mental health or substance use disorder services.

16 E. When in-network access to mental health or
17 substance use disorder services are not reasonably available, a
18 health care plan shall provide access to out-of-network
19 services with the same cost-sharing obligations to a subscriber
20 as those required for in-network services."

21 SECTION 39. A new section of the Nonprofit Health Care
22 Plan Law is enacted to read:

23 "[NEW MATERIAL] UTILIZATION REVIEW OF MENTAL HEALTH OR
24 SUBSTANCE USE DISORDER SERVICES.--

25 A. A health care plan shall, at least monthly,

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1 review and update the health care plan's utilization review
 2 process to reflect the most recent evidence and generally
 3 recognized standards of care.

4 B. When performing a utilization review of mental
 5 health or substance use disorder services, including level of
 6 care placement, continued stay, transfer and discharge, a
 7 health care plan shall apply criteria in accordance with
 8 generally recognized standards of care.

9 C. A health care plan shall provide utilization
 10 review training to staff and contractors undertaking activities
 11 related to utilization review.

12 D. A health care plan shall:

13 (1) develop utilization review policies
 14 regarding quantitative and non-quantitative limitations for
 15 mental health or substance use disorder services coverage that
 16 are no more restrictive than the utilization review policies
 17 regarding quantitative and non-quantitative limitations for
 18 medical and surgical care; and

19 (2) make utilization review policies available
 20 to providers or subscribers."

21 **SECTION 40.** A new section of the Nonprofit Health Care
 22 Plan Law is enacted to read:

23 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
 24 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--A health
 25 care plan shall not exclude provider proscribed coverage for

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1 mental health or substance use disorder services otherwise
2 included in its coverage when:

3 A. it is available pursuant to federal or state law
4 for individuals with disabilities;

5 B. it is otherwise ordered by a court or
6 administrative agency;

7 C. it is available to a subscriber through a public
8 benefit program; or

9 D. a subscriber has a concurrent diagnosis."

10 SECTION 41. A new section of the Nonprofit Health Care
11 Plan Law is enacted to read:

12 "[NEW MATERIAL] LEVEL OF CARE DETERMINATIONS FOR THE
13 PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER
14 SERVICES.--

15 A. A health care plan shall provide coverage for
16 all in-network mental health or substance use disorder
17 services, consistent with generally recognized standards of
18 care, including placing a subscriber into a medically necessary
19 level of care.

20 B. Changes in level and duration of care shall be
21 determined by the subscriber's provider in consultation with
22 the insurer.

23 C. Level of care determinations shall include
24 placement of a subscriber into a facility that provides
25 detoxification services, a hospital, an inpatient

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1 rehabilitation treatment facility or an outpatient treatment
2 program.

3 D. Level of care services for a subscriber with a
4 mental health or substance use disorder shall be based on the
5 mental health or substance use disorder needs of the subscriber
6 rather than arbitrary time limits."

7 SECTION 42. A new section of the Nonprofit Health Care
8 Plan Law is enacted to read:

9 "[NEW MATERIAL] COORDINATION OF CARE.--At the request of a
10 subscriber, a health care plan may facilitate communication
11 between mental health or substance use disorder services
12 providers and the subscriber's designated primary care provider
13 to ensure coordination of care to prevent any conflicts of care
14 that could be harmful to the subscriber."

15 SECTION 43. A new section of the Nonprofit Health Care
16 Plan Law is enacted to read:

17 "[NEW MATERIAL] CONFIDENTIALITY PROVISIONS.--A health care
18 plan shall protect the confidentiality of a subscriber
19 receiving mental health or substance use disorder treatment."

20 SECTION 44. A new section of the Nonprofit Health Care
21 Plan Law is enacted to read:

22 "[NEW MATERIAL] EXCEPTIONS.--The provisions of Sections 35
23 through 43 of this 2023 act do not apply to short-term plans
24 subject to the Short-Term Health Plan and Excepted Benefit
25 Act."

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