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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.

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:

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

- (1) psychiatry;
- (2) psychology;
- (3) social work;
- (4) clinical counseling;

1 (5) addiction medicine and counseling; or

2 (6) family and marriage counseling; and

3 B. "mental health or substance use disorder
4 services" means:

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

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

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

20 "BENEFITS REQUIRED.--Group coverage, including any form
21 of self-insurance, offered, issued or renewed under the
22 Health Care Purchasing Act shall provide coverage for all
23 mental health or substance use disorder services required by
24 generally recognized standards of care."

25 SECTION 3. A new section of the Health Care Purchasing

1 Act is enacted to read:

2 "PARITY FOR COVERAGE OF MENTAL HEALTH AND SUBSTANCE USE
3 DISORDER SERVICES.--

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

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

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

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

1 "PROVIDER NETWORK ADEQUACY.--

2 A. An insurer shall maintain an adequate provider
3 network to provide mental health and substance use disorder
4 services.

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

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

18 (1) reimbursement rates in surrounding
19 states;

20 (2) reimbursement rates between mental
21 health and substance use disorder providers and medical or
22 surgical providers; and

23 (3) credentialing processes for mental
24 health and substance use disorder providers and medical or
25 surgical providers.

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

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

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

14 "UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE
15 DISORDER SERVICES.--

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

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

25 C. An insurer shall provide utilization review

1 training to staff and contractors undertaking activities
2 related to utilization review.

3 D. An insurer shall:

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

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

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

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

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

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

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

25 D. an insured has a concurrent diagnosis."

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

3 "LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF
4 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

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

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

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

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

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

24 "COORDINATION OF CARE.--An insurer may facilitate
25 communication between mental health or substance use disorder

1 services providers and the insured's designated primary care
2 provider to ensure coordination of care to prevent any
3 conflicts of care that could be harmful to the insured."

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

6 "CONFIDENTIALITY PROVISIONS.--An insurer shall protect
7 the confidentiality of an insured receiving mental health or
8 substance use disorder services."

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

11 "EXCEPTIONS.--The provisions of Sections 1 through 9 of
12 this 2023 act do not apply to short-term plans subject to the
13 Short-Term Health Plan and Excepted Benefit Act."

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

16 "PRIOR AUTHORIZATION RESCINDING OR MODIFYING
17 PROHIBITED.--A health insurer shall not rescind or modify an
18 authorization for mental health or substance use disorder
19 services that has been authorized, after the provider renders
20 the services pursuant to a determination of medical
21 necessity, in good faith, except for cases of fraud or
22 violation of the provider's contract with the health
23 insurer."

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

1 "PRIOR AUTHORIZATION OR REFERRAL REQUIREMENT FOR
2 IN-NETWORK MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES
3 COVERAGE PROHIBITED.--

4 A. A health insurer shall not require prior
5 authorization and referral requirements for the following
6 mental health or substance use disorder services:

- 7 (1) acute or immediately necessary care;
8 (2) acute episodes of chronic mental health
9 or substance use disorder conditions; or
10 (3) initial in-network inpatient or
11 outpatient substance use treatment services.

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

- 15 (1) continuation of services in chronic or
16 stable conditions; or
17 (2) additional services.

18 C. Except in cases in which the insured terminates
19 a plan, a health insurer shall not terminate coverage of
20 services without consultation with the insured's mental
21 health or substance use disorder services provider.

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

1 E. The duration of coverage for an insured with a
2 mental health or substance use disorder shall be based on the
3 mental health or substance use disorder needs of the insured
4 rather than on arbitrary time limits.

5 F. A health insurer may require a mental health or
6 substance use disorder services provider to provide
7 notification to the health insurer after the initiation of
8 in-network mental health or substance use disorder treatment
9 pursuant to Subsection A of this section.

10 G. If a provider fails to notify a health insurer
11 pursuant to Subsection F of this section, a health insurer
12 may perform appropriate utilization review.

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

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

19 "PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS OR STEP
20 THERAPY FOR SUBSTANCE USE DISORDER PROHIBITED.--

21 A. Coverage for medication approved by the federal
22 food and drug administration that is prescribed for the
23 treatment of a substance use disorder, pursuant to a medical
24 necessity determination, shall not be subject to prior
25 authorization, except in cases in which a generic version is

1 available.

2 B. A health insurer shall not impose step therapy
3 requirements before authorizing coverage for medication
4 approved by the federal food and drug administration that is
5 prescribed for the treatment of a substance use disorder,
6 pursuant to a medical necessity determination, except in
7 cases in which a generic version is available."

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

10 "DEFINITIONS.--As used in Sections 14 through 22 of this
11 2023 act:

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

- 20 (1) psychiatry;
- 21 (2) psychology;
- 22 (3) social work;
- 23 (4) clinical counseling;
- 24 (5) addiction medicine and counseling; or
- 25 (6) family and marriage counseling; and

1 B. "mental health or substance use disorder
2 services" means:

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

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

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

18 "BENEFITS REQUIRED.--A group health plan, other than a
19 small group health plan or a blanket health insurance policy
20 or contract that is delivered, issued for delivery or renewed
21 in this state shall provide coverage for all mental health or
22 substance use disorder services required by generally
23 recognized standards of care."

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

1 "PARITY FOR COVERAGE OF MENTAL HEALTH OR SUBSTANCE USE
2 DISORDER SERVICES.--

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

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

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

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

25 "PROVIDER NETWORK ADEQUACY.--

1 A. An insurer shall maintain an adequate provider
2 network to provide mental health or substance use disorder
3 services.

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

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

17 (1) reimbursement rates in surrounding
18 states;

19 (2) reimbursement rates between mental
20 health and substance use disorder providers and medical or
21 surgical providers; and

22 (3) credentialing processes for mental
23 health and substance use disorder providers and medical or
24 surgical providers.

25 D. An insurer shall undertake all efforts,

1 including increasing provider reimbursement rates through the
2 processes and strategies described in Subsection C of this
3 section, to ensure state-mandated network adequacy for the
4 provision of mental health or substance use disorder
5 services.

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

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

13 "UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE
14 DISORDER SERVICES.--

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

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

24 C. An insurer shall provide utilization review
25 training to staff and contractors undertaking activities

1 related to utilization review.

2 D. An insurer shall:

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

9 (2) make utilization review policies
10 available to providers or plan members."

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

13 "PROHIBITED EXCLUSIONS OF COVERAGE FOR MENTAL HEALTH OR
14 SUBSTANCE USE DISORDER SERVICES.--An insurer shall not
15 exclude provider prescribed coverage for mental health or
16 substance use disorder services otherwise included in its
17 coverage when:

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

20 B. it is otherwise ordered by a court or
21 administrative agency;

22 C. it is available to an insured through a public
23 benefit program; or

24 D. an insured has a concurrent diagnosis."

25 SECTION 20. A new section of Chapter 59A, Article 23

1 NMSA 1978 is enacted to read:

2 "LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF
3 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

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

9 B. Changes in level and duration of care shall be
10 determined by the insured's provider in consultation with the
11 insurer.

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

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

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

23 "COORDINATION OF CARE.--At the request of an insured, an
24 insurer may facilitate communication between mental health or
25 substance use disorder services providers and the insured's

1 designated primary care provider to ensure coordination of
2 care to prevent any conflicts of care that could be harmful
3 to the insured."

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

6 "CONFIDENTIALITY PROVISIONS.--An insurer shall protect
7 the confidentiality of an insured receiving mental health or
8 substance use disorder services."

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

11 "EXCEPTIONS.--The provisions of Sections 14 through 22
12 of this 2023 act do not apply to short-term plans subject to
13 the Short-Term Health Plan and Excepted Benefit Act."

14 SECTION 24. Section 59A-23E-18 NMSA 1978 (being Laws
15 2000, Chapter 6, Section 1, as amended) is amended to read:

16 "59A-23E-18. REQUIREMENT FOR MENTAL HEALTH BENEFITS IN
17 AN INDIVIDUAL OR GROUP HEALTH PLAN, OR GROUP HEALTH INSURANCE
18 OFFERED IN CONNECTION WITH THE PLAN, FOR A PLAN YEAR OF AN
19 EMPLOYER.--

20 A. A group health plan or group or individual
21 health insurance shall not impose treatment limitations or
22 financial restrictions, limitations or requirements on the
23 provision of mental health benefits that are more restrictive
24 than the predominant restrictions, limitations or
25 requirements that are imposed on coverage of benefits for

1 other conditions.

2 B. As used in this section, "mental health
3 benefits" means mental health benefits as described in the
4 group health plan or group health insurance offered in
5 connection with the plan."

6 SECTION 25. A new section of the Health Maintenance
7 Organization Law is enacted to read:

8 "DEFINITIONS.--As used in Sections 25 through 33 of this
9 2023 act:

10 A. "generally recognized standards" means
11 standards of care and clinical practice established by
12 evidence-based sources, including clinical practice
13 guidelines and recommendations from mental health and
14 substance use disorder care provider professional
15 associations and relevant federal government agencies, that
16 are generally recognized by providers practicing in relevant
17 clinical specialties, including:

- 18 (1) psychiatry;
- 19 (2) psychology;
- 20 (3) social work;
- 21 (4) clinical counseling;
- 22 (5) addiction medicine and counseling; or
- 23 (6) family and marriage counseling; and

24 B. "mental health or substance use disorder
25 services" means:

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

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

14 SECTION 26. A new section of the Health Maintenance
15 Organization Law is enacted to read:

16 "BENEFITS REQUIRED.--A health maintenance organization,
17 other than a small group health maintenance organization
18 contract that is delivered, issued for delivery or renewed in
19 this state, shall provide coverage for all mental health or
20 substance use disorder services required by generally
21 recognized standards of care."

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

24 "PARITY FOR COVERAGE OF MENTAL HEALTH OR SUBSTANCE USE
25 DISORDER SERVICES.--

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

5 B. A carrier shall not impose quantitative
6 treatment limitations, financial restrictions, limitations or
7 requirements on the provision of mental health or substance
8 use disorder services that are more restrictive than the
9 predominant restrictions, limitations or requirements that
10 are imposed on substantially all of the coverage of benefits
11 for other conditions.

12 C. A carrier shall not impose non-quantitative
13 treatment limitations for the treatment of mental health or
14 substance use disorders or conditions unless factors,
15 including the processes, strategies or evidentiary standards
16 used in applying the non-quantitative treatment limitation,
17 as written and in operation, are comparable to and are
18 applied no more restrictively than the factors used in
19 applying the limitation with respect to medical or surgical
20 benefits in the classification."

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

23 "PROVIDER NETWORK ADEQUACY.--

24 A. A carrier shall maintain an adequate provider
25 network to provide mental health or substance use disorder

1 services.

2 B. The superintendent shall ensure access to
3 mental health or substance use disorder services providers,
4 including parity with medical and surgical services provider
5 access, through regulation and review of claims processing,
6 provider reimbursement procedures, network adequacy and
7 provider reimbursement rate adequacy.

8 C. A carrier shall ensure that the process by
9 which reimbursement rates for mental health and substance use
10 disorder services are determined is comparable to and no more
11 stringent than the process for reimbursement of medical or
12 surgical benefits. In developing provider reimbursement
13 rates, a carrier shall demonstrate that it has performed a
14 comparability analysis of provider:

15 (1) reimbursement rates in surrounding
16 states;

17 (2) reimbursement rates between mental
18 health and substance use disorder providers and medical or
19 surgical providers; and

20 (3) credentialing processes for mental
21 health and substance use disorder providers and medical or
22 surgical providers.

23 D. A carrier shall undertake all efforts,
24 including increasing provider reimbursement rates through the
25 processes and strategies described in Subsection C of this

1 section, to ensure state-mandated network adequacy for the
2 provision of mental health or substance use disorder
3 services.

4 E. When in-network access to mental health or
5 substance use disorder services are not reasonably available,
6 a carrier shall provide access to out-of-network services
7 with the same cost-sharing obligations to an enrollee as
8 those required for in-network services."

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

11 "UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE
12 DISORDER SERVICES.--

13 A. A carrier shall, at least monthly, review and
14 update the carrier's utilization review process to reflect
15 the most recent evidence and generally recognized standards
16 of care.

17 B. When performing a utilization review of mental
18 health or substance use disorder services, including level of
19 care placement, continued stay, transfer and discharge, a
20 carrier shall apply criteria in accordance with generally
21 recognized standards of care.

22 C. A carrier shall provide utilization review
23 training to staff and contractors undertaking activities
24 related to utilization review.

25 D. A carrier shall:

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

7 (2) make utilization review policies
8 available to providers or enrollees."

9 SECTION 30. A new section of the Health Maintenance
10 Organization Law is enacted to read:

11 "PROHIBITED EXCLUSIONS OF COVERAGE FOR MENTAL HEALTH OR
12 SUBSTANCE USE DISORDER SERVICES.--A carrier shall not exclude
13 provider prescribed coverage for mental health or substance
14 use disorder services otherwise included in its coverage
15 when:

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

18 B. it is otherwise ordered by a court or
19 administrative agency;

20 C. it is available to an enrollee through a public
21 benefit program; or

22 D. an enrollee has a concurrent diagnosis."

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

25 "LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF

1 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

2 A. A carrier shall provide coverage for all in-
3 network mental health or substance use disorder services,
4 consistent with generally recognized standards of care,
5 including placing an enrollee into a medically necessary
6 level of care.

7 B. Changes in level and duration of care shall be
8 determined by the enrollee's provider in consultation with
9 the carrier.

10 C. Level of care determinations shall include
11 placement of an enrollee into a facility that provides
12 detoxification services, a hospital, an inpatient
13 rehabilitation treatment facility or an outpatient treatment
14 program.

15 D. Level of care services for an enrollee with a
16 mental health or substance use disorder shall be based on the
17 mental health or substance use disorder needs of the enrollee
18 rather than arbitrary time limits."

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

21 "COORDINATION OF CARE.--At the request of an enrollee, a
22 carrier may facilitate communication between mental health or
23 substance use disorder services providers and the enrollee's
24 designated primary care provider to ensure coordination of
25 care to prevent any conflicts of care that could be harmful

1 to the enrollee."

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

4 "CONFIDENTIALITY PROVISIONS.--A carrier shall protect
5 the confidentiality of an enrollee receiving mental health or
6 substance use disorder treatment."

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

9 "EXCEPTIONS.--The provisions of Sections 25 through 33
10 of this 2023 act do not apply to short-term plans subject to
11 the Short-Term Health Plan and Excepted Benefit Act."

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

14 "DEFINITIONS.--As used in Sections 35 through 43 of this
15 2023 act:

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

24 (1) psychiatry;

25 (2) psychology;

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

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

7 (1) professional services, including
8 inpatient and outpatient services and prescription drugs,
9 provided in accordance with generally recognized standards of
10 care for the identification, prevention, treatment,
11 minimization of progression, habilitation and rehabilitation
12 of conditions or disorders listed in the current edition of
13 the American psychiatric association's *Diagnostic and*
14 *Statistical Manual of Mental Disorders*, including substance
15 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 36. A new section of the Nonprofit Health Care
21 Plan Law is enacted to read:

22 "BENEFITS REQUIRED.--A health care plan, other than a
23 small health care plan, that is delivered, issued for
24 delivery or renewed in this state shall provide coverage for
25 all mental health or substance use disorder services required

1 by generally recognized standards of care."

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

4 "PARITY FOR COVERAGE OF MENTAL HEALTH OR SUBSTANCE USE
5 DISORDER SERVICES.--

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

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

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

1 SECTION 38. A new section of the Nonprofit Health Care
2 Plan Law is enacted to read:

3 "PROVIDER NETWORK ADEQUACY.--

4 A. A health care plan shall maintain an adequate
5 provider network to provide mental health or substance use
6 disorder services.

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

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

20 (1) reimbursement rates in surrounding
21 states;

22 (2) reimbursement rates between mental
23 health and substance use disorder providers and medical or
24 surgical providers; and

25 (3) credentialing processes for mental

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

3 D. A health care plan 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
8 services.

9 E. When in-network access to mental health or
10 substance use disorder services are not reasonably available,
11 a health care plan shall provide access to out-of-network
12 services with the same cost-sharing obligations to a
13 subscriber as those required for in-network services."

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

16 "UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE
17 DISORDER SERVICES.--

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

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

1 generally recognized standards of care.

2 C. A health care plan shall provide utilization
3 review training to staff and contractors undertaking
4 activities related to utilization review.

5 D. A health care plan shall:

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

12 (2) make utilization review policies
13 available to providers or subscribers."

14 SECTION 40. A new section of the Nonprofit Health Care
15 Plan Law is enacted to read:

16 "PROHIBITED EXCLUSIONS OF COVERAGE FOR MENTAL HEALTH OR
17 SUBSTANCE USE DISORDER SERVICES.--A health care plan shall
18 not exclude provider prescribed coverage for mental health or
19 substance use disorder services otherwise included in its
20 coverage when:

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

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

25 C. it is available to a subscriber through a

1 public benefit program; or

2 D. a subscriber has a concurrent diagnosis."

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

5 "LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF
6 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

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

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

15 C. Level of care determinations shall include
16 placement of a subscriber 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 a subscriber with a
21 mental health or substance use disorder shall be based on the
22 mental health or substance use disorder needs of the
23 subscriber rather than arbitrary time limits."

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

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

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

9 "CONFIDENTIALITY PROVISIONS.--A health care plan shall
10 protect the confidentiality of a subscriber receiving mental
11 health or substance use disorder treatment."

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

14 "EXCEPTIONS.--The provisions of Sections 35 through 43
15 of this 2023 act do not apply to short-term plans subject to
16 the Short-Term Health Plan and Excepted Benefit Act."

17 SECTION 45. REPORTING.--The office of superintendent of
18 insurance shall report annually to the legislative health and
19 human services committee and the legislative finance
20 committee regarding the implementation, regulation,
21 compliance and enforcement of the provisions of this 2023
22 act.

23 SECTION 46. APPLICABILITY.--The provisions of this act
24 are applicable to group health insurance policies, health care
25 plans or certificates of health insurance, other than small

1 group health plans, that are delivered, issued for delivery or
2 renewed in this state on or after January 1, 2024. _____

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