

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 260

**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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underscoring material = new  
[bracketed material] = delete

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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[bracketed material] = delete

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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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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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



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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underscoring 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

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

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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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



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,

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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1           SECTION 45.  [NEW MATERIAL] REPORTING.--The office of  
2 superintendent of insurance shall report annually to the  
3 legislative health and human services committee and the  
4 legislative finance committee regarding the implementation,  
5 regulation, compliance and enforcement of the provisions of  
6 this 2023 act.

7           SECTION 46.  APPROPRIATION.--One million dollars  
8 (\$1,000,000) is appropriated from the general fund to the  
9 office of superintendent of insurance for expenditure in fiscal  
10 year 2024 and subsequent fiscal years to hire staff to  
11 regulate, monitor compliance and enforce the provisions of this  
12 act.  Any unexpended or unencumbered balance remaining at the  
13 end of a fiscal year shall not revert to the general fund.

14           SECTION 47.  APPLICABILITY.--The provisions of this act  
15 are applicable to group health insurance policies, health care  
16 plans or certificates of health insurance, other than small  
17 group health plans, that are delivered, issued for delivery or  
18 renewed in this state on or after January 1, 2024.