

1 SENATE BILL 273

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

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10 AN ACT

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

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

24 A. "generally recognized standards" means standards
25 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) addiction medicine and counseling; or
- 10 (5) family and marriage counseling; and

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

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

21 (2) professional services, provided in
22 accordance with generally recognized standards of care,
23 provided by a marriage and family therapist licensed pursuant
24 to Chapter 61 NMSA 1978."

25 SECTION 2. A new section of the Health Care Purchasing

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1 Act is enacted to read:

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

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

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

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

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

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

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

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

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

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

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

17 C. An insurer shall set provider reimbursement
18 rates for mental health or substance use disorder services at
19 levels consistent with those provided for medical and surgical
20 services.

21 D. An insurer shall undertake all efforts,
22 including increasing provider reimbursement rates, to ensure
23 state-mandated network adequacy for the provision of mental
24 health or substance use disorder services.

25 E. When in-network access to mental health or

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1 substance use disorder services is not reasonably available, an
2 insurer shall provide access to out-of-network services with
3 the same cost-sharing obligations to the insured as those
4 required for in-network services."

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

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

9 A. When performing a utilization review of mental
10 health or substance use disorder services, including level of
11 care placement, continued stay, transfer and discharge, an
12 insurer shall apply the most recent versions of treatment
13 criteria and standards developed by the professional
14 association for the relevant clinical specialty.

15 B. An insurer shall provide utilization review
16 training to staff and contractors undertaking activities
17 related to utilization review.

18 C. An insurer shall:

19 (1) develop utilization review policies
20 regarding quantitative and non-quantitative limitations for
21 mental health and substance use disorder services coverage that
22 are no more restrictive than quantitative and non-quantitative
23 limitations for medical and surgical care; and

24 (2) make utilization review policies available
25 to providers or plan members."

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

3 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
4 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--An insurer
5 shall not exclude coverage for mental health or substance use
6 disorder services otherwise included in its coverage when:

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

9 B. it is ordered by a court or administrative
10 agency;

11 C. it is available to an insured through a public
12 benefit program; or

13 D. an insured has a concurrent diagnosis."

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

16 "[NEW MATERIAL] LEVEL OF CARE DETERMINATIONS FOR THE
17 PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER
18 SERVICES.--

19 A. An insurer shall provide coverage for all in-
20 network mental health or substance use disorder services,
21 consistent with generally recognized standards of care,
22 including placing an insured into a medically necessary level
23 of care.

24 B. Changes in level and duration of care shall be
25 determined by the insured's provider in consultation with the

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1 insurer.

2 C. Level of care determinations shall include
3 placement of an insured into a facility that provides
4 detoxification services, a hospital, an inpatient
5 rehabilitation treatment facility or an outpatient treatment
6 program.

7 D. Duration and level of care services for an
8 insured with a mental health or substance use disorder shall be
9 based on the needs of the insured rather than specific time
10 limits."

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

13 "[NEW MATERIAL] COORDINATION OF CARE.--An insurer shall
14 facilitate communication between mental health or substance use
15 disorder services providers and the insured's designated
16 primary care provider to ensure coordination of care to prevent
17 any conflicts of care that could be harmful to the insured."

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

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

23 SECTION 10. A new section of the Prior Authorization Act
24 is enacted to read:

25 "[NEW MATERIAL] PRIOR AUTHORIZATION RESCINDING OR

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1 MODIFYING PROHIBITED.--A health insurer shall not rescind or
2 modify an authorization for mental health or substance use
3 disorder services that has been authorized, after the provider
4 renders the services pursuant to a determination of medical
5 necessity, in good faith, except for cases of fraud or
6 violation of the provider's contract with the health insurer."

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

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

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

- 15 (1) acute or immediately necessary care;
16 (2) acute episodes of chronic conditions; or
17 (3) initial in-network substance use treatment
18 services.

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

- 22 (1) continuation of services in chronic or
23 stable conditions; or
24 (2) additional services.

25 C. A health insurer shall not terminate coverage of

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1 services without full consultation with the insured's mental
2 health 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 needs of the insured rather than on specific time limits.

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

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

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

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

24 "[NEW MATERIAL] PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS
25 OR STEP THERAPY FOR SUBSTANCE USE DISORDER PROHIBITED.--

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1 A. Coverage for medication approved by the federal
2 food and drug administration that is prescribed for the
3 treatment of a substance use disorder, pursuant to a medical
4 necessity determination, shall not be subject to prior
5 authorization.

6 B. A health insurer shall not impose step therapy
7 requirements before authorizing coverage for medication
8 approved by the federal food and drug administration that is
9 prescribed for the treatment of a substance use disorder,
10 pursuant to a medical necessity determination."

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

13 "[NEW MATERIAL] DEFINITIONS.--As used in Sections 13
14 through 21 of this 2023 act:

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

- 22 (1) psychiatry;
23 (2) psychology;
24 (3) social work;
25 (4) addiction medicine and counseling; or

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1 (5) family and marriage counseling; and

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

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

12 (2) professional services, provided in
13 accordance with generally recognized standards of care,
14 provided by a marriage and family therapist licensed pursuant
15 to Chapter 61 NMSA 1978."

16 SECTION 14. A new section of Chapter 59A, Article 23 NMSA
17 1978 is enacted to read:

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

24 SECTION 15. A new section of Chapter 59A, Article 23 NMSA
25 1978 is enacted to read:

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1 "[NEW MATERIAL] PARITY FOR COVERAGE OF MENTAL HEALTH OR
2 SUBSTANCE USE 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 health
6 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 use
10 disorder services that are more restrictive than the
11 predominant restrictions, limitations or requirements that are
12 imposed on substantially all of the coverage of benefits for
13 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, including
17 the processes, strategies or evidentiary standards used in
18 applying the non-quantitative treatment limitation, as written
19 and in operation, are comparable to and are applied no more
20 restrictively than the factors used in applying the limitation
21 with respect to medical or surgical benefits in the
22 classification."

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

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

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

10 C. An insurer shall set provider reimbursement
11 rates for mental health or substance use disorder services at
12 levels consistent with those provided for medical and surgical
13 services.

14 D. An insurer shall undertake all efforts,
15 including increasing provider reimbursement rates, to ensure
16 state-mandated network adequacy for the provision of mental
17 health or substance use disorder services.

18 E. When in-network access to mental health or
19 substance use disorder services is not reasonably available, an
20 insurer shall provide access to out-of-network services with
21 the same cost-sharing obligations to the insured as those
22 required for in-network services."

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

25 "NEW MATERIAL] UTILIZATION REVIEW OF MENTAL HEALTH OR
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1 SUBSTANCE USE DISORDER SERVICES.--

2 A. When performing a utilization review of mental
3 health or substance use disorder services, including level of
4 care placement, continued stay, transfer and discharge, an
5 insurer shall apply the most recent versions of treatment
6 criteria and standards developed by the professional
7 association for the relevant clinical specialty.

8 B. An insurer shall provide utilization review
9 training to staff and contractors undertaking activities
10 related to utilization review.

11 C. An insurer shall:

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

17 (2) make utilization review policies available
18 to providers or plan members."

19 SECTION 18. A new section of Chapter 59A, Article 23 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
22 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--An insurer
23 shall not exclude coverage for mental health or substance use
24 disorder services otherwise included in 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 ordered by a court or administrative
3 agency;

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

6 D. an insured has a concurrent diagnosis."

7 SECTION 19. A new section of Chapter 59A, Article 23 NMSA
8 1978 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. An insurer 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 insured into a medically necessary level
16 of care.

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

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

25 D. Duration and level of care services for an

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1 insured with a mental health or substance use disorder shall be
2 based on the needs of the insured rather than specific time
3 limits."

4 SECTION 20. A new section of Chapter 59A, Article 23 NMSA
5 1978 is enacted to read:

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

11 SECTION 21. A new section of Chapter 59A, Article 23 NMSA
12 1978 is enacted to read:

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

16 SECTION 22. Section 59A-23E-18 NMSA 1978 (being Laws
17 2000, Chapter 6, Section 1, as amended) is amended to read:

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

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

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1 than the predominant restrictions, limitations or requirements
2 that are imposed on coverage of benefits for other conditions.

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

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

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

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

17 **SECTION 23.** A new section of the Health Maintenance
18 Organization Law is enacted to read:

19 "[NEW MATERIAL] DEFINITIONS.--As used in Sections 23
20 through 31 of this 2023 act:

21 A. "generally recognized standards" means standards
22 of care and clinical practice established by evidence-based
23 sources, including clinical practice guidelines and
24 recommendations from mental health and substance use disorder
25 care provider professional associations and relevant federal

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1 government agencies, that are generally recognized by providers
2 practicing in relevant clinical specialties, including:

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

8 B. "mental health or substance use disorder
9 services" means:

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

18 (2) professional services, provided in
19 accordance with generally recognized standards of care,
20 provided by a marriage and family therapist licensed pursuant
21 to Chapter 61 NMSA 1978."

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

24 "[NEW MATERIAL] BENEFITS REQUIRED.--A health maintenance
25 organization, other than a small group health maintenance

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1 organization contract that is delivered, issued for delivery or
2 renewed in this state, shall provide coverage for all mental
3 health or substance use disorder services required by generally
4 recognized standards of care."

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

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

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

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

20 C. A carrier shall not impose non-quantitative
21 treatment limitations for the treatment of mental health or
22 substance use disorders or conditions unless factors, including
23 the processes, strategies or evidentiary standards used in
24 applying the non-quantitative treatment limitation, as written
25 and in operation, are comparable to and are applied no more

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1 restrictively than the factors used in applying the limitation
2 with respect to medical or surgical benefits in the
3 classification."

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

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

7 A. A carrier shall maintain an adequate provider
8 network to provide mental health or substance use disorder
9 services.

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

16 C. A carrier shall set provider reimbursement rates
17 for mental health or substance use disorder services at levels
18 consistent with those provided for medical and surgical
19 services.

20 D. A carrier shall undertake all efforts, including
21 increasing provider reimbursement rates, to ensure state-
22 mandated network adequacy for the provision of mental health or
23 substance use disorder services.

24 E. When in-network access to mental health or
25 substance use disorder services are not reasonably available, a

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1 carrier shall provide access to out-of-network services with
2 the same cost-sharing obligations to an enrollee as those
3 required for in-network services."

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

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

8 A. When performing a utilization review of mental
9 health or substance use disorder services, including level of
10 care placement, continued stay, transfer and discharge, a
11 carrier shall apply the most recent versions of treatment
12 criteria and standards developed by the professional
13 association for the relevant clinical specialty.

14 B. A carrier shall provide utilization review
15 training to staff and contractors undertaking activities
16 related to utilization review.

17 C. A carrier shall:

18 (1) develop utilization review policies
19 regarding quantitative and non-quantitative limitations for
20 mental health or substance use disorder services coverage that
21 are no more restrictive than quantitative and non-quantitative
22 limitations for medical and surgical care; and

23 (2) make utilization review policies available
24 to providers or enrollees."

25 SECTION 28. A new section of the Health Maintenance

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1 Organization Law is enacted to read:

2 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
3 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--A carrier
4 shall not exclude coverage for mental health or substance use
5 disorder services otherwise included in its coverage when:

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

8 B. it is ordered by a court or administrative
9 agency;

10 C. it is available to an enrollee through a public
11 benefit program; or

12 D. an enrollee has a concurrent diagnosis."

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

15 "[NEW MATERIAL] LEVEL OF CARE DETERMINATIONS FOR THE
16 PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER
17 SERVICES.--

18 A. A carrier shall provide coverage for all in-
19 network mental health or substance use disorder services,
20 consistent with generally recognized standards of care,
21 including placing an enrollee into a medically necessary level
22 of care.

23 B. Changes in level and duration of care shall be
24 determined by the enrollee's provider in consultation with the
25 carrier.

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1 C. Level of care determinations shall include
2 placement of an enrollee into a facility that provides
3 detoxification services, a hospital, an inpatient
4 rehabilitation treatment facility or an outpatient treatment
5 program.

6 D. Duration and level of care services for an
7 enrollee with a mental health or substance use disorder shall
8 be based on the needs of the enrollee rather than specific time
9 limits."

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

12 "[NEW MATERIAL] COORDINATION OF CARE.--A carrier shall
13 facilitate communication between mental health or substance use
14 disorder services providers and the enrollee's designated
15 primary care provider to ensure coordination of care to prevent
16 any conflicts of care that could be harmful to the enrollee."

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

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

22 SECTION 32. A new section of the Nonprofit Health Care
23 Plan Law is enacted to read:

24 "[NEW MATERIAL] DEFINITIONS.--As used in Sections 32
25 through 40 of this 2023 act:

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

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

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

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

23 (2) professional services, provided in
24 accordance with generally recognized standards of care,
25 provided by a marriage and family therapist licensed pursuant

underscoring material = new
[bracketed material] = delete

1 to Chapter 61 NMSA 1978."

2 SECTION 33. A new section of the Nonprofit Health Care
3 Plan Law is enacted to read:

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

9 SECTION 34. A new section of the Nonprofit Health Care
10 Plan Law is enacted to read:

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

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

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

24 C. A health care plan shall not impose non-
25 quantitative treatment limitations for the treatment of mental

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

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

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

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

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

20 C. A health care plan shall set provider
21 reimbursement rates for mental health or substance use disorder
22 services at levels consistent with those provided for medical
23 and surgical services.

24 D. A health care plan shall undertake all efforts,
25 including increasing provider reimbursement rates, to ensure

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1 state-mandated network adequacy for the provision of mental
2 health or substance use disorder services.

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

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

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

12 A. When performing a utilization review of mental
13 health or substance use disorder services, including level of
14 care placement, continued stay, transfer and discharge, a
15 health care plan shall apply the most recent versions of
16 treatment criteria and standards developed by the professional
17 association for the relevant clinical specialty.

18 B. A health care plan shall provide utilization
19 review training to staff and contractors undertaking activities
20 related to utilization review.

21 C. A health care plan shall:

22 (1) develop utilization review policies
23 regarding quantitative and non-quantitative limitations for
24 mental health or substance use disorder services coverage that
25 are no more restrictive than quantitative and non-quantitative

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1 limitations for medical and surgical care; and

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

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

6 "[NEW MATERIAL] PROHIBITED EXCLUSIONS OF COVERAGE FOR
7 MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--A health
8 care plan shall not exclude coverage for mental health or
9 substance use disorder services otherwise included in its
10 coverage when:

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

13 B. it is ordered by a court or administrative
14 agency;

15 C. it is available to a subscriber through a public
16 benefit program; or

17 D. a subscriber has a concurrent diagnosis."

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

20 "[NEW MATERIAL] LEVEL OF CARE DETERMINATIONS FOR THE
21 PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER
22 SERVICES.--

23 A. A health care plan shall provide coverage for
24 all in-network mental health or substance use disorder
25 services, consistent with generally recognized standards of

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1 care, including placing a subscriber into a medically necessary
2 level of care.

3 B. Changes in level and duration of care shall be
4 determined by the subscriber's provider in consultation with
5 the insurer.

6 C. Level of care determinations shall include
7 placement of a subscriber into a facility that provides
8 detoxification services, a hospital, an inpatient
9 rehabilitation treatment facility or an outpatient treatment
10 program.

11 D. Duration and level of care services for a
12 subscriber with a mental health or substance use disorder shall
13 be based on the needs of the subscriber rather than specific
14 time limits."

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

17 "[NEW MATERIAL] COORDINATION OF CARE.--A health care plan
18 shall facilitate communication between mental health or
19 substance use disorder services providers and the subscriber's
20 designated primary care provider to ensure coordination of care
21 to prevent any conflicts of care that could be harmful to the
22 subscriber."

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

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

3 SECTION 41. [NEW MATERIAL] REPORTING.--The office of
4 superintendent of insurance shall report annually to the
5 legislative health and human services committee and the
6 legislative finance committee regarding the implementation,
7 regulation, compliance and enforcement of the provisions of
8 this 2023 act.

9 SECTION 42. APPROPRIATION.--One million five hundred
10 thousand dollars (\$1,500,000) is appropriated from the general
11 fund to the office of superintendent of insurance for
12 expenditure in fiscal year 2024 and subsequent fiscal years to
13 hire staff to regulate, monitor compliance and enforce the
14 provisions of this act. Any unexpended or unencumbered balance
15 remaining at the end of a fiscal year shall not revert to the
16 general fund.

17 SECTION 43. APPLICABILITY.--The provisions of this act
18 are applicable to group health insurance policies, health care
19 plans or certificates of health insurance, other than small
20 group health plans, that are delivered, issued for delivery or
21 renewed in this state on or after January 1, 2024.