

LFC Requester:

Eric Chenier

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*Date Prepared: 2/17/2025

Check all that apply:

Bill Number: SB 390Original Correction Amendment Substitute

Sponsor: Senator Katy Duhigg
 Short Title: PARITY FOR MENTAL HEALTH AND
 SUBSTANCE USE DISORDER
 TREATMENT

Agency Name
 and Code
 Number:

Office of Superintendent of
 Insurance - 440

Person Writing Viara Ianakieva
 Phone: 505-908-9073 Email [Viara.ianakieva@osi.n](mailto:Viara.ianakieva@osi.nm.gov)

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
N/A	N/A	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Senate Bill 390 (SB390) amends the Health Care Purchasing Act and the Insurance Code to require that mental and behavioral health services must be reimbursed by insurance companies at the same level that they would reimburse other health providers for other health conditions, for all services determined to be medically necessary.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

The MHCB may see an uptake in provider grievances.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

The current language does not specify which types of services provided by a behavioral or mental health care provider are excluded from reimbursement. To ensure proper compliance and enforcement, it would be beneficial to clarify whether the intention is to cover medical services performed by mental health or behavioral providers specifically for the treatment and diagnosis of mental health or substance use disorders. For instance, a psychiatrist may order a CT scan to rule out a neurological issue versus a psychiatric condition in response to a sudden change in a patient's mental status and behavior. The current language addresses reimbursement for services provided by a behavioral or mental health provider but does not specify reimbursement for services prescribed by these providers, such as tests or procedures performed in other departments, like a radiology or laboratory facility.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Insurers may deny coverage and reimbursement for medical services provided or prescribed by behavioral health or mental health providers. For example, a carrier may refuse to cover or reimburse a physical test prescribed by a behavioral health provider, such as a psychiatrist, if the test is required before prescribing medication for behavioral health treatment.

AMENDMENTS

OSI has been notified of another issue where insurers have denied care for services such as nutritional counseling performed by a registered dietician for the treatment of an eating disorder diagnosis, or speech language therapy for the treatment of autism. Insurer's have justified such denials by stating that although such service are within the scope of practice for the non-behavioral health providers, they cannot bill for claim with behavioral health diagnosis. The Federal MHPAEA law specifically states that services such as nutritional counseling and speech language therapy for the treatment of a mental health or substance use diagnosis are also subject to mental health parity and must be covered. To clarify that this practice is prohibited, OSI recommends an additional subsection to include address these type of situations.

OSI proposes the following amendments:

Pg.2 Line 14, Pg.4 Line 4, Pg.5 Line 9 and Pg.6 Line 14:

D. An insurer shall pay or reimburse ~~a behavioral or mental health care provider~~ for all medically necessary services prescribed or performed by a behavioral or mental health provider for the treatment or diagnosis of a mental health or substance use disorder condition, including medical tests and services that the health care provider performs, regardless of the health care provider's designation as a behavioral or mental health care provider; provided that the service is within the scope and limitations of the provider's license and is a covered benefit under the insured's health plan.

E. An insurer shall pay or reimburse for all medically necessary services, prescribed or performed in relation to a mental health or substance use disorder diagnosis when provided by a non-behavioral or mental health provider, regardless of the health care provider's designation; provided that the service is within the scope and limitations of the provider's license and is a covered benefit under the insured's health plan.

Pg.2 Line 22:

A. An insurer shall pay or reimburse ~~a behavioral or mental health care provider~~ for all medically necessary services prescribed or performed by a behavioral or mental health provider for the treatment or diagnosis of a mental health or substance use disorder condition, including medical tests and services that the health care provider performs, regardless of the health care provider's designation as a behavioral or mental health care provider; provided that the service is within the scope and limitations of the provider's license and is a covered benefit under the insured's health plan.

B. An insurer shall pay or reimburse for all medically necessary services, prescribed or performed in relation to a mental health or substance use disorder diagnosis when provided by a non-behavioral or mental health provider, regardless of the health care provider's designation; provided that the service is within the scope and limitations of the provider's license and is a covered benefit under the insured's health plan.