

**§4234-A. Mental health services coverage****1. Findings.** The Legislature finds that:

A. Mental illness affects nearly 170,000 people of this State each year, resulting in anguish, grief, desperation, fear, isolation and a sense of hopelessness of significant levels among victims and families; [PL 1995, c. 407, §10 (NEW).]

B. Consequences of mental illness include the expenditure of millions of dollars of public funds for treatment and losses of millions of dollars by businesses in the State in accidents, absenteeism, nonproductivity and turnover. Excessive stress and anxiety and other forms of mental illness clearly contribute to general health problems and costs; [PL 1995, c. 407, §10 (NEW).]

C. Typical health coverage in this State discriminates against mental illness, the victims and affected families with nonexistent or limited benefits compared to provisions for other illnesses; and [PL 1995, c. 407, §10 (NEW).]

D. Experience in this State and several other states demonstrates that the risk of mental illness can be insured at reasonable cost and with adequate controls on quality and utilization of treatment. [PL 1995, c. 407, §10 (NEW).]

[PL 1995, c. 407, §10 (NEW).]

**2. Policy and purpose.** The Legislature declares that it is the policy of this State to:

A. Promote equitable and nondiscriminatory health coverage benefits for all forms of illness including mental and emotional disorders that are of significant consequence to the health of people of the State and that can be treated in a cost-effective manner; [PL 1995, c. 407, §10 (NEW).]

B. Ensure that victims of mental and other illnesses have access to and choice of appropriate treatment at the earliest point of illness in the least restrictive settings; [PL 1995, c. 407, §10 (NEW).]

C. Ensure that costs of treatment of mental illness are supported through an equitable combination of public and private responsibilities; and [PL 1995, c. 407, §10 (NEW).]

D. Ensure that the Legislature reasonably exercises its legal responsibility for insurance policy in this State by prescribing types of illnesses and treatment for which benefits must be provided. [PL 1995, c. 407, §10 (NEW).]

[PL 1995, c. 407, §10 (NEW).]

**3. Definitions.** For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Day treatment services" includes psychoeducational, physiological, psychological and psychosocial concepts, techniques and processes necessary to maintain or develop functional skills of clients, provided to individuals and groups for periods of more than 2 hours but less than 24 hours a day. [PL 1995, c. 407, §10 (NEW).]

A-1. "Diagnostic and Statistical Manual" means the Diagnostic and Statistical Manual of Mental Disorders, 4th edition, published by the American Psychiatric Association. [PL 2003, c. 20, Pt. VV, §16 (NEW); PL 2003, c. 20, Pt. VV, §25 (AFF).]

A-2. "Home health care services" means those services rendered by a licensed provider of mental health services to provide medically necessary health care to a person suffering from a mental illness in the person's place of residence if:

(1) Hospitalization or confinement in a residential treatment facility would otherwise have been required if home health care services were not provided;

(2) Hospitalization or confinement in a residential treatment facility is not required as an antecedent to the provision of home health care services; and

(3) The services are prescribed in writing by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness. [PL 2003, c. 20, Pt. VV, §16 (NEW); PL 2003, c. 20, Pt. VV, §25 (AFF).]

A-3. "Evidence-based practices" means clinically sound and scientifically based policies, practices and programs that reflect expert consensus on the prevention, treatment and recovery science, including, but not limited to, policies, practices and programs published and disseminated by the Substance Abuse and Mental Health Services Administration and the Title IV-E Prevention Services Clearinghouse within the United States Department of Health and Human Services, the What Works Clearinghouse within the United States Department of Education, Institute of Education Sciences and the California Evidence-Based Clearinghouse for Child Welfare within the California Department of Social Services, Office of Child Abuse Prevention. [PL 2021, c. 595, §7 (NEW).]

B. "Inpatient services" includes a range of physiological, psychological and other intervention concepts, techniques and processes used in a community mental health psychiatric inpatient unit, general hospital psychiatric unit or psychiatric hospital licensed by the Department of Human Services or in an accredited public hospital to restore psychosocial functioning sufficient to allow maintenance and support of the client in a less restrictive setting. [PL 1995, c. 407, §10 (NEW).]

B-1. "Medically necessary health care" has the same meaning as in section 4301-A, subsection 10-A. [PL 2003, c. 20, Pt. VV, §17 (NEW); PL 2003, c. 20, Pt. VV, §25 (AFF).]

C. "Outpatient services" includes screening, evaluation, consultations, diagnosis and treatment involving use of psychoeducational, physiological, psychological and psychosocial evaluative and interventional concepts, techniques and processes provided to individuals and groups. [PL 1995, c. 407, §10 (NEW).]

D. "Person suffering from a mental illness" means a person whose psychobiological processes are impaired severely enough to manifest problems in the area of social, psychological or biological functioning. Such a person has a disorder of thought, mood, perception, orientation or memory that impairs judgment, behavior, capacity to recognize or ability to cope with the ordinary demands of life. The person manifests an impaired capacity to maintain acceptable levels of functioning in the area of intellect, emotion or physical well-being. [PL 2003, c. 20, Pt. VV, §18 (AMD); PL 2003, c. 20, Pt. VV, §25 (AFF).]

E. "Provider" means an individual included in section 2744, subsection 1, a licensed physician, an accredited public hospital or psychiatric hospital or a community agency licensed at the comprehensive service level by the Department of Health and Human Services. All agency or institutional providers named in this paragraph shall ensure that services are supervised by a psychiatrist or licensed psychologist. [PL 1999, c. 256, Pt. O, §3 (AMD); PL 2001, c. 354, §3 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 2021, c. 595, §7 (AMD).]

**4. Requirement.** Every health maintenance organization that issues individual or group health care contracts providing coverage to residents of this State shall provide benefits as required in this section to any subscriber or other person covered under those contracts for conditions arising from mental illness.

[PL 2003, c. 20, Pt. VV, §19 (AMD); PL 2003, c. 20, Pt. VV, §25 (AFF).]

**5. Services.** Each individual or group contract must provide for medically necessary health care for a person suffering from mental illness. Medically necessary health care includes, but is not limited to, the following services for a person suffering from a mental illness:

A. Inpatient services; [PL 1995, c. 407, §10 (NEW).]

B. Day treatment services; [PL 2003, c. 20, Pt. VV, §19 (AMD); PL 2003, c. 20, Pt. VV, §25 (AFF).]

C. Outpatient services; and [PL 2003, c. 20, Pt. VV, §19 (AMD); PL 2003, c. 20, Pt. VV, §25 (AFF).]

D. Home health care services. [PL 2003, c. 20, Pt. VV, §19 (NEW); PL 2003, c. 20, Pt. VV, §25 (AFF).]

[PL 2003, c. 20, Pt. VV, §19 (AMD); PL 2003, c. 20, Pt. VV, §25 (AFF).]

**6. Coverage for treatment of certain mental illnesses.** Coverage for medical treatment for mental illnesses listed in paragraph A-1 is subject to this subsection.

A. [PL 2003, c. 20, Pt. VV, §20 (RP); PL 2003, c. 20, Pt. VV, §25 (AFF).]

A-1. All individual and group contracts must provide, at a minimum, benefits according to paragraph B, subparagraph (1) for a person receiving medical treatment for any of the following categories of mental illness as defined in the Diagnostic and Statistical Manual, except for those designated as "V" codes in the Diagnostic and Statistical Manual:

- (1) Psychotic disorders, including schizophrenia;
- (2) Dissociative disorders;
- (3) Mood disorders;
- (4) Anxiety disorders;
- (5) Personality disorders;
- (6) Paraphilias;
- (7) Attention deficit and disruptive behavior disorders;
- (8) Pervasive developmental disorders;
- (9) Tic disorders;
- (10) Eating disorders, including bulimia and anorexia; and
- (11) Substance use disorders.

For the purposes of this paragraph, the mental illness must be diagnosed by a licensed allopathic or osteopathic physician or a licensed psychologist who is trained and has received a doctorate in psychology specializing in the evaluation and treatment of mental illness. [PL 2019, c. 5, Pt. D, §3 (AMD).]

B. All policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State must provide benefits that meet the requirements of this paragraph.

(1) The contracts must provide benefits for the treatment and diagnosis of mental illnesses under terms and conditions that are no less extensive than the benefits provided for medical treatment for physical illnesses.

(2) At the request of a reimbursing health maintenance organization, a provider of medical treatment for mental illness shall furnish data substantiating that initial or continued treatment is medically necessary health care. When making the determination of whether treatment is medically necessary health care, the provider shall use the same criteria for medical treatment

for mental illness as for medical treatment for physical illness under the group contract. An insurer may not deny treatment for mental health services that use evidence-based practices and are determined to be medically necessary health care for an individual 21 years of age or younger.

(3) If benefits and coverage for the treatment of physical illness are provided on an expense-incurred basis, the benefits and coverage required under this subsection may be delivered separately under a managed care system.

(4) A policy or contract may not have separate maximums for physical illness and mental illness, separate deductibles and coinsurance amounts for physical illness and mental illness, separate out-of-pocket limits in a benefit period of not more than 12 months for physical illness and mental illness or separate office visit limits for physical illness and mental illness.

(5) A health benefit plan may not impose a limitation on coverage or benefits for mental illness unless that same limitation is also imposed on the coverage and benefits for physical illness covered under the policy or contract.

(6) Copayments required under a policy or contract for benefits and coverage for mental illness must be actuarially equivalent to any coinsurance requirements or, if there are no coinsurance requirements, may not be greater than any copayment or coinsurance required under the policy or contract for a benefit or coverage for a physical illness.

(7) For the purposes of this section, a medication management visit associated with a mental illness must be covered in the same manner as a medication management visit for the treatment of a physical illness and may not be counted in the calculation of any maximum outpatient treatment visit limits. [PL 2021, c. 595, §8 (AMD).]

[PL 2021, c. 595, §8 (AMD).]

#### **7. Mandated offer of coverage for certain mental illnesses.**

[PL 2019, c. 5, Pt. D, §4 (RP).]

**8. Contracts; providers.** A health maintenance organization incorporated under this chapter shall allow providers, pursuant to sections 2744 and 2835, to contract for and receive payment, subject to the health maintenance organization's credentialing policy, for the provision of mental health services within the scope of the provider's licensure.

[PL 2003, c. 65, §3 (AMD); PL 2003, c. 65, §5 (AFF).]

**8-A. Mental health services provided by counseling professionals.** A health maintenance organization that issues individual or group health care contracts providing coverage for mental health services shall offer coverage for those services when performed by a counseling professional who is licensed by the State pursuant to Title 32, chapter 119 to assess and treat interpersonal and intrapersonal problems, has at least a master's degree in counseling or a related field from an accredited educational institution and has been employed as counselor for at least 2 years. Any contract providing coverage for the services of counseling professionals pursuant to this subsection may be subject to any reasonable limitations, maximum benefits, coinsurance, deductibles or exclusion provisions applicable to overall benefits under the contract.

[PL 2003, c. 20, Pt. VV, §23 (AMD); PL 2003, c. 20, Pt. VV, §25 (AFF).]

**9. Limits; coinsurance; deductibles.** A policy or contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

[PL 1995, c. 407, §10 (NEW).]

**10. Reports to the superintendent.** Every health maintenance organization subject to this section shall report its experience for each calendar year to the superintendent no later than April 30th of the following year. The report must be in a form prescribed by the superintendent and include the amount of claims paid in this State for the services required by this section and the total amount of claims paid in this State for individual and group health care contracts, both separated according to those paid for inpatient, day treatment and outpatient services. The superintendent shall compile this data for all health maintenance organizations in an annual report.

[PL 1995, c. 407, §10 (NEW).]

**11. Application.** Except as otherwise provided, the requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State. Contracts entered into with the State Government or the Federal Government to service Medicaid or Medicare populations may limit the services provided under such contracts consistent with the terms of those contracts if mental health services are provided to these populations by other means.

[PL 2003, c. 20, Pt. VV, §24 (AMD); PL 2003, c. 20, Pt. VV, §25 (AFF).]

#### SECTION HISTORY

PL 1995, c. 407, §10 (NEW). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1995, c. 637, §§6,7 (AMD). PL 1995, c. 673, §D8 (AMD). PL 1997, c. 174, §1 (AMD). PL 1999, c. 256, §O3 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 20, §§VV16-24 (AMD). PL 2003, c. 20, §VV25 (AFF). PL 2003, c. 65, §3 (AMD). PL 2003, c. 65, §5 (AFF). PL 2003, c. 689, §B6 (REV). PL 2017, c. 407, Pt. A, §98 (AMD). PL 2019, c. 5, Pt. D, §§3, 4 (AMD). PL 2021, c. 595, §§7, 8 (AMD).

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