
By: ~~Delegate Sher~~ **Delegates Sher, Donoghue, Fulton, Goldwater, Kirk,
Krysiak, Love, McHale, and Pendergrass**

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Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER _____

1 AN ACT concerning

2 **Health Insurance - Benefits for Treatment of Mental Illnesses, Emotional**
3 **Disorders, and Drug and Alcohol Abuse Task Force on Access to Mental**
4 **Health Treatment for Privately Insured Individuals**

5 FOR the purpose of establishing that it is not discriminatory with respect to an
6 individual with a mental illness, emotional disorder, drug abuse disorder, or
7 alcohol abuse disorder if a certain policy or contract of health insurance provides
8 a range of certain services that allow certain medically necessary treatment to
9 take place in a certain clinical setting; prohibiting a certain policy or contract
10 from having separate limitations on frequency or duration of treatment for
11 physical illnesses and certain other illnesses; requiring a carrier to make a
12 determination whether certain treatment is medically necessary in a certain
13 manner; and generally relating to benefits for the treatment of mental illnesses,
14 emotional disorders, and drug and alcohol abuse under health insurance the
15 Task Force on Access to Mental Health Treatment for Privately Insured
16 Individuals; specifying the duties of the task force; specifying the members of
17 the task force; requiring the Governor to appoint the chairman of the task force;
18 requiring the task force to submit a certain report to the Governor and the
19 General Assembly by a certain date; providing for the termination of this Act;
20 and generally relating to mental health services.

21 ~~BY repealing and reenacting, with amendments,~~
22 ~~Article Insurance~~
23 ~~Section 15-802~~
24 ~~Annotated Code of Maryland~~
25 ~~(1997 Volume and 2001 Supplement)~~

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article—Insurance**

4 ~~15-802.~~

5 (a) (1) ~~In this section the following words have the meanings indicated.~~

6 (2) ~~"Alcohol abuse" has the meaning stated in § 8-101 of the Health—~~
7 ~~General Article.~~

8 (3) ~~"Drug abuse" has the meaning stated in § 8-101 of the Health—~~
9 ~~General Article.~~

10 (4) ~~"Managed care system" means a system of cost containment methods~~
11 ~~that a carrier uses to review and preauthorize a treatment plan developed by a health~~
12 ~~care provider for a covered individual in order to control utilization, quality, and~~
13 ~~claims.~~

14 (5) ~~"Partial hospitalization" means the provision of medically directed~~
15 ~~intensive or intermediate short-term treatment:~~

16 (i) ~~to an insured, subscriber, or member;~~

17 (ii) ~~in a licensed or certified facility or program;~~

18 (iii) ~~for mental illness, emotional disorders, drug abuse, or alcohol~~
19 ~~abuse; and~~

20 (iv) ~~for a period of less than 24 hours but more than 4 hours in a~~
21 ~~day.~~

22 (b) ~~This section applies to each health insurance policy or contract that is~~
23 ~~delivered or issued for delivery in the State to an employer or individual on a group or~~
24 ~~individual basis and that provides coverage on an expense incurred basis.~~

25 (c) ~~A policy or contract subject to this section may not discriminate against an~~
26 ~~individual with a mental illness, emotional disorder, drug abuse disorder, or alcohol~~
27 ~~abuse disorder by failing to provide benefits for the diagnosis and treatment of these~~
28 ~~illnesses under the same terms and conditions that apply under the policy or contract~~
29 ~~for the diagnosis and treatment of physical illnesses.~~

30 (d) ~~It is not discriminatory under subsection (c) of this section if at least the~~
31 ~~following benefits are provided:~~

32 (1) ~~with respect to inpatient benefits for services provided in a licensed~~
33 ~~or certified facility, including hospital inpatient benefits, the total number of days for~~
34 ~~which benefits are payable and the terms and conditions that apply to those benefits~~

1 are at least equal to those that apply to the benefits available under the policy or
2 contract for physical illnesses;

3 (2) subject to subsection [(g)] (H) of this section, with respect to benefits
4 for partial hospitalization, at least 60 days of partial hospitalization are covered
5 under the same terms and conditions that apply to the benefits available under the
6 policy or contract for physical illnesses; [and]

7 (3) with respect to outpatient coverage, other than for inpatient or
8 partial hospitalization services, benefits for covered expenses arising from services
9 provided to treat mental illnesses, emotional disorders, drug abuse, or alcohol abuse
10 are at a rate that, after the applicable deductible, is not less than:

11 (i) 80% for the first five visits in a calendar year or benefit period
12 of not more than 12 months;

13 (ii) 65% for the 6th through 30th visit in a calendar year or benefit
14 period of not more than 12 months; and

15 (iii) 50% for the 31st visit and any subsequent visit in a calendar
16 year or benefit period of not more than 12 months; AND

17 (4) A RANGE OF INPATIENT, INTERMEDIATE, AND OUTPATIENT
18 SERVICES THAT ALLOW MEDICALLY NECESSARY AND ACTIVE AND NONCUSTODIAL
19 TREATMENT TO TAKE PLACE IN THE LEAST RESTRICTIVE CLINICALLY APPROPRIATE
20 SETTING ARE PROVIDED, INCLUDING:

21 (I) RESIDENTIAL TREATMENT PROGRAMS;

22 (II) REHABILITATIVE SERVICES; AND

23 (III) CRISIS INTERVENTION SERVICES THAT PROVIDE UP TO 30 DAYS
24 OF INPATIENT OR RESIDENTIAL CARE.

25 (e) (1) The benefits under this section are required only for expenses arising
26 from the treatment of mental illnesses, emotional disorders, drug abuse, or alcohol
27 abuse if, in the professional judgment of health care providers:

28 (i) the mental illness, emotional disorder, drug abuse, or alcohol
29 abuse is treatable; and

30 (ii) the treatment is medically necessary.

31 (2) The benefits required under this section:

32 (i) shall be provided as one set of benefits covering mental
33 illnesses, emotional disorders, drug abuse, and alcohol abuse;

34 (ii) shall have the same terms and conditions as the benefits for
35 physical illnesses covered under the policy or contract subject to this section, except
36 as specifically provided in this section; and

1 (iii) may be delivered under a managed care system.

2 (3) Except for the coinsurance requirements under subsection (d)(3) of
3 this section, a policy or contract subject to this section may not have:

4 (i) separate lifetime maximums for physical illnesses and illnesses
5 covered under this section;

6 (ii) separate deductibles and coinsurance amounts for physical
7 illnesses and illnesses covered under this section; [or]

8 (iii) separate out-of-pocket limits in a benefit period of not more
9 than 12 months for physical illnesses and illnesses covered under this section; OR

10 (IV) SEPARATE LIMITATIONS ON FREQUENCY OR DURATION OF
11 TREATMENT FOR PHYSICAL ILLNESSES AND ILLNESSES COVERED UNDER THIS
12 SECTION.

13 (4) Any copayments required under a policy or contract subject to this
14 section for benefits for illnesses covered under this section shall be:

15 (i) actuarially equivalent to any coinsurance requirements under
16 this section; or

17 (ii) if there are no coinsurance requirements, not greater than any
18 copayment required under the policy or contract for a benefit for a physical illness.

19 (F) WHEN MAKING A DETERMINATION WHETHER TREATMENT OF MENTAL
20 ILLNESSES, EMOTIONAL DISORDERS, DRUG ABUSE, OR ALCOHOL ABUSE IS
21 MEDICALLY NECESSARY, A CARRIER MUST DO SO IN A MANNER CONSISTENT WITH
22 THAT USED TO MAKE THE DETERMINATION FOR THE TREATMENT OF OTHER
23 DISEASES OR INJURIES COVERED UNDER A POLICY OR CONTRACT SUBJECT TO THIS
24 SECTION.

25 [(f)] (G) An office visit to a physician or other health care provider for
26 medication management:

27 (1) may not be counted against the number of visits required to be
28 covered as a part of the benefits required under subsection (d)(3) of this section; and

29 (2) shall be reimbursed under the same terms and conditions as an office
30 visit for a physical illness covered under the policy or contract subject to this section.

31 [(g)] (H) This section does not prohibit exceeding the minimum benefits
32 required under subsection (d)(2) of this section for any partial hospitalization day that
33 is medically necessary and would serve to prevent inpatient hospitalization.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
35 effect October 1, 2002.

1 (a) There is a Task Force on Access to Mental Health Treatment for Privately
2 Insured Individuals.

3 (b) The task force consists of the following 13 members:

4 (1) Two members of the Senate of Maryland, appointed by the President
5 of the Senate;

6 (2) Two members of the House of Delegates, appointed by the Speaker of
7 the House;

8 (3) The Secretary of the Department of Health and Mental Hygiene or
9 the Secretary's designee;

10 (4) The Maryland Insurance Commissioner or the Commissioner's
11 designee;

12 (5) The following members appointed by the Governor:

13 (i) One representative of the commercial health insurance
14 industry;

15 (ii) One representative of a commercial health maintenance
16 organization;

17 (iii) One representative of the managed behavioral health care
18 industry;

19 (iv) One representative of the Maryland Hospital Association;

20 (v) One representative of the Mental Health Association of
21 Maryland;

22 (vi) One representative of the Community Behavioral Health
23 Association of Maryland; and

24 (vii) One representative of the pediatric mental health community.

25 (c) The Governor shall appoint the chairman of the task force.

26 (d) The task force shall study and make recommendations regarding:

27 (1) The differences in the coverage of mental health services among the
28 public mental health system, commercial health insurers, and commercial health
29 maintenance organizations;

30 (2) The structure and effectiveness of the mental health care delivery
31 system in the State; and

1 (3) Compliance by commercial health insurers and health maintenance
2 organizations with the mental health parity requirements under § 15-802 of the
3 Insurance Article and § 19-703.1 of the Health - General Article.

4 (e) The task force shall report its findings and recommendations to the
5 Governor, and in accordance with § 2-1246 of the State Government Article, the
6 General Assembly, on or before December 1, 2003.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect July 1, 2002. It shall remain effective for a period of 1 year and 6 months and,
9 at the end of December 31, 2003, with no further action required by the General
10 Assembly, this Act shall be abrogated and of no further force and effect.