

SENATE BILL 57

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EMERGENCY BILL
(PRE-FILED)

01r0030

By: **Chair, Finance Committee (By Request – Departmental – Insurance Administration, Maryland)**

Requested: September 24, 2009

Introduced and read first time: January 13, 2010

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Insurance – Mental Health Benefits – Group Health Plans**

3 FOR the purpose of providing that it is not discriminatory, under certain provisions of
4 law that prohibit certain health insurance policies, contracts, or certificates
5 from discriminating against a person with a mental illness, emotional disorder,
6 drug abuse disorder, or alcohol abuse disorder, if the benefits for partial
7 hospitalization and outpatient expenses under certain group health plans are
8 covered in a certain manner; providing that, under certain group health plans,
9 certain benefits for mental illnesses, emotional disorders, drug abuse disorders,
10 or alcohol abuse disorders may be delivered under a managed care system only
11 if the benefits for physical illnesses are delivered under a managed care system;
12 defining certain terms; making conforming and technical changes; making this
13 Act an emergency measure; and generally relating to health insurance and
14 mental health benefits.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 19–703.1
18 Annotated Code of Maryland
19 (2009 Replacement Volume)

20 BY repealing and reenacting, with amendments,
21 Article – Insurance
22 Section 15–802
23 Annotated Code of Maryland
24 (2006 Replacement Volume and 2009 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Health – General**

2 19–703.1.

3 (a) (1) In this section the following terms have the meanings indicated.

4 (2) “Alcohol abuse” has the meaning stated in § 8–101 of this article.

5 (3) “Drug abuse” has the meaning stated in § 8–101 of this article.

6 **(4) “GROUP HEALTH PLAN” MEANS AN EMPLOYER–SPONSORED**
7 **HEALTH BENEFIT PLAN SUBJECT TO THE PROVISIONS OF 29 U.S.C. § 1185A OR**
8 **26 U.S.C. § 9812.**9 **(5) “HEALTH BENEFIT PLAN” HAS THE MEANING STATED IN §**
10 **15–1401 OF THE INSURANCE ARTICLE.**11 **[(4)] (6)** “Managed care system” means a method that a carrier uses
12 to review and preauthorize a treatment plan that a health care practitioner develops
13 for a covered person using a variety of cost containment methods to control utilization,
14 quality, and claims.15 **[(5)] (7)** “Partial hospitalization” means the provision of medically
16 directed intensive or intermediate short–term treatment for mental illness, emotional
17 disorders, drug abuse or alcohol abuse for a period of less than 24 hours but more than
18 4 hours in a day for a member or subscriber in a licensed or certified facility or
19 program.20 (b) (1) Subject to the provisions of this section, each contract or certificate
21 issued to a member or subscriber by a health maintenance organization that provides
22 health benefits and services for diseases may not discriminate against any person with
23 a mental illness, emotional disorder or a drug abuse or alcohol abuse disorder by
24 failing to provide benefits for treatment and diagnosis of these illnesses under the
25 same terms and conditions as provided for covered benefits offered under the contract
26 or certificate for the treatment of physical illness.27 (2) It shall not be considered to be discriminatory under paragraph (1)
28 of this subsection if at least the following benefits are provided:29 (i) With respect to inpatient benefits provided in a licensed or
30 certified facility, which shall include hospital inpatient benefits, the total number of
31 days for which benefits are payable shall be[:32 1. Except as provided in subsection (d) of this section,
33 from July 1, 1994 through June 30, 1995, at least 60 days in any calendar year or

1 benefit period of not more than 12 months under the same terms and conditions that
2 apply to benefits available under the contract or certificate for physical illness; and

3 2. On or after July 1, 1995,] at least equal to the same
4 terms and conditions that apply to the benefits available under the contract or
5 certificate for physical illness;

6 (ii) [Subject] **EXCEPT AS PROVIDED IN ITEM (III) OF THIS**
7 **PARAGRAPH AND SUBJECT** to subsection [(f)] **(E)** of this section, with respect to
8 benefits for partial hospitalization, at least 60 days of partial hospitalization shall be
9 covered under the same terms and conditions that apply to the benefit available under
10 the contract or certificate for physical illness; [and]

11 **(III) FOR GROUP HEALTH PLANS, WITH RESPECT TO**
12 **BENEFITS FOR PARTIAL HOSPITALIZATION, THE BENEFITS SHALL BE COVERED**
13 **UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO THE BENEFITS**
14 **AVAILABLE UNDER THE CONTRACT FOR OUTPATIENT HOSPITAL ADMISSIONS**
15 **FOR PHYSICAL ILLNESS FOR AT LEAST 60 DAYS;**

16 [(iii)] **(IV) [With] EXCEPT AS PROVIDED IN ITEM (V) OF THIS**
17 **PARAGRAPH, WITH** respect to outpatient coverage, other than for inpatient or partial
18 hospitalization services, benefits for covered expenses arising from services, including
19 psychological and neuropsychological testing for diagnostic purposes, [which] **THAT**
20 are rendered to treat mental illness, emotional disorders, drug abuse, and alcohol
21 abuse shall be at a rate [which] **THAT** is, after the applicable deductible, not less
22 than:

23 1. 80 percent for the first 5 visits in any calendar year or
24 benefit period of not more than 12 months;

25 2. 65 percent for the 6th through 30th visit in any
26 calendar year or benefit period of not more than 12 months; and

27 3. 50 percent for the 31st visit and any visit after the
28 31st visit in any calendar year or benefit period of not more than 12 months; **AND**

29 **(V) FOR GROUP HEALTH PLANS, BENEFITS FOR COVERED**
30 **OUTPATIENT EXPENSES ARISING FROM SERVICES, INCLUDING ALL OFFICE**
31 **VISITS AND PSYCHOLOGICAL AND NEUROPSYCHOLOGICAL TESTING FOR**
32 **DIAGNOSTIC PURPOSES, THAT ARE RENDERED TO TREAT MENTAL ILLNESS,**
33 **EMOTIONAL DISORDERS, DRUG ABUSE, AND ALCOHOL ABUSE SHALL BE**
34 **COVERED UNDER THE SAME TERMS AND CONDITIONS THAT APPLY TO SIMILAR**
35 **BENEFITS AVAILABLE UNDER THE CONTRACT FOR PHYSICAL ILLNESS.**

36 (c) (1) The benefits under this section shall be required only for expenses
37 arising for treatment of mental illnesses, emotional disorders, drug abuse, and alcohol

1 abuse [which] THAT in the professional judgment of practitioners is medically
2 necessary and treatable.

3 (2) The benefits required under this section shall be provided as one
4 set of benefits covering mental illnesses, emotional disorders, drug abuse, and alcohol
5 abuse.

6 (3) [The] **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THE**
7 benefits required under this section may be delivered under a managed care system.

8 **(4) FOR GROUP HEALTH PLANS, THE BENEFITS REQUIRED UNDER**
9 **THIS SECTION MAY BE DELIVERED UNDER A MANAGED CARE SYSTEM ONLY IF**
10 **THE BENEFITS FOR PHYSICAL ILLNESSES COVERED UNDER THE CONTRACT ARE**
11 **DELIVERED UNDER A MANAGED CARE SYSTEM.**

12 **[(4)] (5)** Except as specifically provided in this section, benefits for
13 illnesses covered by this section and the benefits for physical illnesses covered under a
14 contract or certificate shall have the same terms and conditions.

15 **[(5)] (6)** Except for the coinsurance provisions in subsection
16 **[(b)(2)(iii)] (B)(2)(IV)** of this section, a contract or certificate that is subject to this
17 section may not have:

18 (i) Separate lifetime maximums for physical illnesses and
19 illnesses covered under this section;

20 (ii) Separate deductibles and coinsurance amounts for physical
21 illnesses and illnesses covered under this section; or

22 (iii) Separate out-of-pocket limits in a benefit period of not more
23 than 12 months for physical illnesses and illnesses covered under this section.

24 **[(6)] (7)** (i) Subject to subparagraph (ii) of this paragraph, any
25 copayments required under a contract or certificate for benefits for illnesses covered
26 under this section shall be:

27 1. Actuarially equivalent to any coinsurance
28 requirements under this section; or

29 2. Where there are no coinsurance requirements, not
30 greater than a copayment required for a benefit under the contract or a certificate for
31 a physical illness.

32 (ii) A health maintenance organization may not charge a
33 copayment that is greater than 50% of the daily cost for methadone maintenance
34 treatment.

1 (d) [Notwithstanding the provisions of subsection (b)(2)(i)1 of this section,
 2 until July 1, 1995, a contract or certificate that is subject to this section that offers less
 3 than 60 days coverage for inpatient care for health care for physical illness must only
 4 include coverage for mental illness, emotional disorders, drug abuse, and alcohol abuse
 5 that is at least equal to the benefit offered for those other types of health care. On and
 6 after July 1, 1995, the provisions of subsection (b)(2)(i)2 of this section shall apply.

7 (e)] An office visit to a physician or other health care provider for the purpose
 8 of medication management may not be counted against the number of visits required
 9 to be covered as a part of the benefits required under subsection [(b)(2)(iii)] **(B)(2)(IV)**
 10 of this section and shall be reimbursed under the same terms and conditions as an
 11 office visit for physical illnesses covered under the contract or certificate.

12 [(f)] **(E)** Nothing in this section shall be construed to prohibit exceeding the
 13 minimum benefits required under subsection (b)(2)(ii) **OR (III)** of this section for any
 14 partial hospitalization day that is medically necessary and would serve to prevent
 15 inpatient hospitalization.

16 Article – Insurance

17 15–802.

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

19 (2) “Alcohol abuse” has the meaning stated in § 8–101 of the Health –
 20 General Article.

21 (3) “Drug abuse” has the meaning stated in § 8–101 of the Health –
 22 General Article.

23 **(4) “GROUP HEALTH PLAN” MEANS AN EMPLOYER SPONSORED**
 24 **HEALTH BENEFIT PLAN SUBJECT TO THE PROVISIONS OF 29 U.S.C. § 1185A OR**
 25 **26 U.S.C. § 9812.**

26 **(5) “HEALTH BENEFIT PLAN” HAS THE MEANING STATED IN**
 27 **§ 15–1401 OF THIS TITLE.**

28 [(4)] **(6)** “Managed care system” means a system of cost containment
 29 methods that a carrier uses to review and preauthorize a treatment plan developed by
 30 a health care provider for a covered individual in order to control utilization, quality,
 31 and claims.

32 [(5)] **(7)** “Partial hospitalization” means the provision of medically
 33 directed intensive or intermediate short–term treatment:

34 (i) to an insured, subscriber, or member;

- 1 (ii) in a licensed or certified facility or program;
- 2 (iii) for mental illness, emotional disorders, drug abuse, or
3 alcohol abuse; and
- 4 (iv) for a period of less than 24 hours but more than 4 hours in a
5 day.

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

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

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

16 (1) with respect to inpatient benefits for services provided in a licensed
17 or certified facility, including hospital inpatient benefits, the total number of days for
18 which benefits are payable and the terms and conditions that apply to those benefits
19 are at least equal to those that apply to the benefits available under the policy or
20 contract for physical illnesses;

21 (2) **EXCEPT AS PROVIDED IN ITEM (3) OF THIS SUBSECTION AND**
22 **subject to subsection (g) of this section, with respect to benefits for partial**
23 **hospitalization, at least 60 days of partial hospitalization are covered under the same**
24 **terms and conditions that apply to the benefits available under the policy or contract**
25 **for physical illnesses; [and]**

26 **(3) FOR GROUP HEALTH PLANS, WITH RESPECT TO BENEFITS FOR**
27 **PARTIAL HOSPITALIZATION, THE BENEFITS ARE COVERED UNDER THE SAME**
28 **TERMS AND CONDITIONS THAT APPLY TO THE BENEFITS AVAILABLE UNDER THE**
29 **CONTRACT FOR OUTPATIENT HOSPITAL ADMISSIONS FOR PHYSICAL ILLNESS**
30 **FOR AT LEAST 60 DAYS;**

31 **[(3)] (4) EXCEPT AS PROVIDED IN ITEM (5) OF THIS SUBSECTION,**
32 **with respect to outpatient coverage, other than for inpatient or partial hospitalization**
33 **services, benefits for covered expenses arising from services, including psychological**
34 **and neuropsychological testing for diagnostic purposes, provided to treat mental**
35 **illnesses, emotional disorders, drug abuse, or alcohol abuse are at a rate that, after the**
36 **applicable deductible, is not less than:**

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

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

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

7 **(5) FOR GROUP HEALTH PLANS, BENEFITS FOR COVERED**
8 **OUTPATIENT EXPENSES ARISING FROM SERVICES, INCLUDING ALL OFFICE**
9 **VISITS AND PSYCHOLOGICAL AND NEUROPSYCHOLOGICAL TESTING FOR**
10 **DIAGNOSTIC PURPOSES, PROVIDED TO TREAT MENTAL ILLNESSES, EMOTIONAL**
11 **DISORDERS, DRUG ABUSE, OR ALCOHOL ABUSE ARE COVERED UNDER THE SAME**
12 **TERMS AND CONDITIONS THAT APPLY TO SIMILAR BENEFITS AVAILABLE UNDER**
13 **THE CONTRACT FOR PHYSICAL ILLNESSES.**

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

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

19 (ii) the treatment is medically necessary.

20 (2) The benefits required under this section:

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

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

26 (iii) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,** may
27 be delivered under a managed care system.

28 **(3) FOR GROUP HEALTH PLANS, THE BENEFITS REQUIRED UNDER**
29 **THIS SECTION MAY BE DELIVERED UNDER A MANAGED CARE SYSTEM ONLY IF**
30 **THE BENEFITS FOR PHYSICAL ILLNESSES COVERED UNDER THE CONTRACT ARE**
31 **DELIVERED UNDER A MANAGED CARE SYSTEM.**

32 **[(3)] (4)** Except for the coinsurance requirements under subsection
33 **[(d)(3)] (D)(4)** of this section, a policy or contract subject to this section may not have:

1 (i) separate lifetime maximums for physical illnesses and
2 illnesses covered under this section;

3 (ii) separate deductibles and coinsurance amounts for physical
4 illnesses and illnesses covered under this section; or

5 (iii) separate out-of-pocket limits in a benefit period of not more
6 than 12 months for physical illnesses and illnesses covered under this section.

7 **[(4)] (5)** (i) Subject to subparagraph (ii) of this paragraph, any
8 copayments required under a policy or contract subject to this section for benefits for
9 illnesses covered under this section shall be:

10 1. actuarially equivalent to any coinsurance
11 requirements under this section; or

12 2. if there are no coinsurance requirements, not greater
13 than any copayment required under the policy or contract for a benefit for a physical
14 illness.

15 (ii) An insurer or nonprofit health service plan may not charge a
16 copayment that is greater than 50% of the daily cost for methadone maintenance
17 treatment.

18 (f) An office visit to a physician or other health care provider for medication
19 management:

20 (1) may not be counted against the number of visits required to be
21 covered as a part of the benefits required under subsection **[(d)(3)] (D)(4)** of this
22 section; and

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

26 (g) This section does not prohibit exceeding the minimum benefits required
27 under subsection (d)(2) **OR (3)** of this section for any partial hospitalization day that is
28 medically necessary and would serve to prevent inpatient hospitalization.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
30 measure, is necessary for the immediate preservation of the public health or safety,
31 has been passed by a ye and nay vote supported by three-fifths of all the members
32 elected to each of the two Houses of the General Assembly, and shall take effect from
33 the date it is enacted.