

1 ENGROSSED SENATE
2 BILL NO. 1718

By: Montgomery and Haste of the
Senate

3 and

4 Echols and West (Josh) of
5 the House

6
7 An Act relating to health insurance; amending 36 O.S.
8 2011, Sections 6060.10, 6060.11, 6060.12, and
9 6060.13, which relate to definitions, benefits
10 required for mental illness, exempted plans, and
11 analysis and report by Insurance Commissioner;
12 modifying definitions; adding definitions; modifying
13 mandated coverage; prohibiting an insurer from
14 imposing more stringent treatment limitations on
15 mental health conditions and substance use disorders
16 than comparable benefits; prohibiting certain
17 treatment limitations; stating exception; requiring
18 all health plans to meet certain requirements;
19 requiring insurers to submit annual report; providing
20 required information for report; requiring Insurance
21 Commissioner to implement and enforce certain law;
22 requiring Commissioner to publicize certain required
23 reports; requiring Commissioner to identify and
24 publicize insurers failing to submit certain report;
authorizing the Commissioner to promulgate rules;
conforming language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 6060.10, is
amended to read as follows:

Section 6060.10. As used in this act:

1. "Base period" means the period of coverage pursuant to the
issuance or renewal of a health benefit plan that is required to

1 provide benefits pursuant to the provisions of Section 6060.11 of
2 this title;

3 2. ~~a.~~ "Health benefit plan" means any plan or arrangement as
4 defined in subsection C of Section 6060.4 of this
5 title, ~~except as provided in subparagraph b of this~~
6 ~~paragraph.~~

7 ~~b.~~ The term "health benefit plan" shall not include
8 ~~individual plans;~~

9 3. "Insurer" means any entity providing an accident and health
10 insurance policy in this state including, but not limited to, a
11 licensed insurance company, a not-for-profit hospital service and
12 medical indemnity corporation, a fraternal benefit society, a
13 multiple employer welfare arrangement or any other entity subject to
14 regulation by the Insurance Commissioner;

15 ~~"Severe mental illness" means any of the following biologically~~
16 ~~based mental illnesses for which the diagnostic criteria are~~
17 ~~prescribed in the most recent edition of the Diagnostic and~~
18 ~~Statistical Manual of Mental Disorders:~~

19 ~~a.~~ ~~schizophrenia,~~

20 ~~b.~~ ~~bipolar disorder (manic-depressive illness),~~

21 ~~c.~~ ~~major depressive disorder,~~

22 ~~d.~~ ~~panic disorder,~~

23 ~~e.~~ ~~obsessive compulsive disorder, and~~

24 ~~f.~~ ~~schizoaffective disorder; and~~

1 4. ~~"Small employer" means any person, firm, corporation,~~
2 ~~partnership, limited liability company, association, or other legal~~
3 ~~entity that is actively engaged in business that, on at least fifty~~
4 ~~percent (50%) of its working days during the preceding calendar~~
5 ~~year, employed no more than fifty (50) employees who work on a full-~~
6 ~~time basis, which means an employee has a normal work week of~~
7 ~~twenty-four (24) or more hours~~ "Mental health and substance use
8 disorder" means any condition or disorder involving a mental health
9 condition or substance use disorder listed under any of the
10 diagnostic categories in the mental disorders section of the most
11 recent edition of the International Classification of Disease or in
12 the mental disorders section of the most recent version of the
13 Diagnostic and Statistical Manual of Mental Disorders; and

14 5. "Mental health and substance use disorder benefits" means
15 benefits covering items or services for mental health conditions or
16 substance use disorders, as defined under the terms of the health
17 benefit plan and in accordance with applicable federal and state
18 law. Any condition defined by the plan as a mental health condition
19 or not a mental health condition shall be consistent with the
20 definition of that condition included in generally recognized
21 independent standards of current medical practice, including but not
22 limited to the most recent version of the Diagnostic and Statistical
23 Manual of Mental Disorders or the most recent edition of the
24 International Classification of Disease.

1 SECTION 2. AMENDATORY 36 O.S. 2011, Section 6060.11, is
2 amended to read as follows:

3 Section 6060.11. A. Subject to the limitations set forth in
4 this section and Sections 6060.12 and 6060.13 of this title, any
5 health benefit plan that is offered, issued, or renewed in this
6 state on or after the effective date of this act shall provide
7 benefits for treatment of ~~severe mental illness~~ health and substance
8 use disorders.

9 ~~B. Subject to the limitations set forth in this section and~~
10 ~~Sections 6060.12 and 6060.13 of this title, any health benefit plan~~
11 ~~offered, issued, or issued for delivery in this state on or after~~
12 ~~the effective date of this act may provide benefits for other forms~~
13 ~~of mental health or substance abuse disorder benefits.~~

14 ~~C. 1. Benefits for mental health and substance use disorders,~~
15 ~~including, but not limited to those required by subsection A of this~~
16 ~~section, and for substance abuse disorder as provided in subsection~~
17 ~~B of this section shall be equal to benefits for treatment of and~~
18 shall be subject to the same preauthorization and utilization review
19 mechanisms and other terms and conditions as all other physical
20 diseases and disorders, including, but not limited to:

- 21 a. coverage of inpatient hospital services for either
22 twenty-six (26) days or the limit for other covered
23 illnesses, whichever is greater,
24 b. coverage of outpatient services,

- c. coverage of medication,
- d. maximum lifetime benefits,
- e. copayments,
- f. coverage of home health visits,
- g. individual and family deductibles, and
- h. coinsurance.

2. Treatment limitations applicable to mental health or substance ~~abuse~~ use disorder benefits shall be no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan. There shall be no separate treatment limitations that are applicable only with respect to mental health or substance abuse disorder benefits.

~~D. The provisions of this section shall not apply to coverage provided by a health benefit plan for a small employer~~

C. A health benefit plan shall not impose a nonquantitative treatment limitation with respect to mental health and substance use disorders in any classification of benefits unless, under the terms of the health benefit plan as written and in operation, any processes, strategies, evidentiary standards or other factors used in applying the nonquantitative treatment limitation to mental health disorders in the classification are comparable to and applied no more stringently than to medical and surgical benefits in the same classification.

1 D. All health benefit plans must meet the requirements of the
2 federal Paul Wellstone and Pete Domenici Mental Health Parity and
3 Addiction Equity Act of 2008, as amended, and federal guidance or
4 regulations issued under these acts including 45 CFR 146.136, 45 CFR
5 147.160 and 45 CFR 156.115(a) (3).

6 E. Beginning on or after the effective date of this act, each
7 insurer that offers, issues or renews any individual or group health
8 benefit plan providing mental health or substance use disorder
9 benefits shall submit an annual report to the Insurance Commissioner
10 on or before April 1 of each year that contains the following:

11 1. A description of the process used to develop or select the
12 medical necessity criteria for mental health and substance use
13 disorder benefits and the process used to develop or select the
14 medical necessity criteria for medical and surgical benefits;

15 2. Identification of all nonquantitative treatment limitations
16 applied to both mental health and substance use disorder benefits
17 and medical and surgical benefits within each classification of
18 benefits; and

19 3. The results of an analysis that demonstrates that for the
20 medical necessity criteria described in paragraph 1 of this
21 subsection and for each nonquantitative treatment limitation
22 identified in paragraph 2 of this subsection, as written and in
23 operation, the processes, strategies, evidentiary standards or other
24 factors used in applying the medical necessity criteria and each

1 nonquantitative treatment limitation to mental health and substance
2 use disorder benefits within each classification of benefits are
3 comparable to and are applied no more stringently than to medical
4 and surgical in the same classification of benefits. At a minimum,
5 the results of the analysis shall:

6 a. identify the factors used to determine that a
7 nonquantitative treatment limitation will apply to a
8 benefit including factors that were considered but
9 rejected,

10 b. identify and define the specific evidentiary standards
11 used to define the factors and any other evidence
12 relied upon in designing each nonquantitative
13 treatment limitation,

14 c. provide the comparative analyses including the results
15 of the analyses performed to determine that the
16 processes and strategies used to design each
17 nonquantitative treatment limitation, as written, and
18 the as written processes and strategies used to apply
19 the nonquantitative treatment limitation to mental
20 health and substance use disorder benefits are
21 comparable to and applied no more stringently than the
22 processes and strategies used to design each
23 nonquantitative treatment limitation, as written, and
24 the as written processes and strategies used to apply

1 the nonquantitative treatment limitation to medical
2 and surgical benefits,

3 d. provide the comparative analyses including the results
4 of the analyses performed to determine that the
5 processes and strategies used to apply each
6 nonquantitative treatment limitation, in operation,
7 for mental health and substance use disorder benefits
8 are comparable to and applied no more stringently than
9 the processes or strategies used to apply each
10 nonquantitative treatment limitation for medical and
11 surgical benefits in the same classification of
12 benefits, and

13 e. disclose the specific findings and conclusions reached
14 by the insurer that the results of the analyses
15 required by this subsection indicate that the insurer
16 is in compliance with this section and the Paul
17 Wellstone and Pete Domenici Mental Health Parity and
18 Addiction Equity Act of 2008, as amended, and its
19 implementing and related regulations including 45 CFR
20 146.136, 45 CFR 147.160 and 45 CFR 156.115(a) (3).

21 F. The Commissioner shall implement and enforce any applicable
22 provisions of the Paul Wellstone and Pete Domenici Mental Health
23 Parity and Addiction Equity Act of 2008, as amended, and federal
24

1 guidance or regulations issued under these acts including 45 CFR
2 146.136, 45 CFR 147.136, 45 CFR 147.160 and 45 CFR 156.115(a)(3).

3 G. No later than June 1, 2021, and by June 1 of each year
4 thereafter, the Commissioner shall make available to the public the
5 reports submitted by insurers, as required in subsection E of this
6 section, during the most recent annual cycle; provided, however,
7 that any information that is confidential or a trade secret shall be
8 redacted.

9 1. The Commissioner shall identify insurers that have failed in
10 whole or in part to comply with the full extent of reporting
11 required in this section and shall make a reasonable attempt to
12 obtain missing reports or information by June 1 of the following
13 year.

14 2. The reports submitted by insurers and the identification by
15 the Commissioner of noncompliant insurers shall be made available to
16 the public by posting on the Internet website of the Insurance
17 Department.

18 H. The Commissioner shall promulgate rules pursuant to the
19 provisions of this section and any provisions of the Paul Wellstone
20 and Pete Domenici Mental Health Parity and Addiction Equity Act of
21 2008, as amended, that relate to the business of insurance.

22 SECTION 3. AMENDATORY 36 O.S. 2011, Section 6060.12, is
23 amended to read as follows:

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1 Section 6060.12. ~~A.~~ 1. A health benefit plan that, at the end
2 of its base period, experiences a greater than two percent (2%)
3 increase in premium costs pursuant to providing benefits for
4 treatment of ~~severe mental illness~~ health and substance use
5 disorders shall be exempt from the provisions of Section ~~2 of this~~
6 ~~act~~ 6060.11 of this title.

7 2. To calculate base-period-premium costs, the health benefit
8 plan shall subtract from premium costs incurred during the base
9 period, both the premium costs incurred during the period
10 immediately preceding the base period and any premium cost increases
11 attributable to factors unrelated to benefits for treatment of
12 ~~severe mental illness~~ health and substance use disorders.

13 3. a. To claim the exemption provided for in subsection A of
14 this section a health benefit plan shall provide to
15 the Insurance Commissioner a written request signed by
16 an actuary stating the reasons and actuarial
17 assumptions upon which the request is based.

18 b. The Commissioner shall verify the information provided
19 and shall approve or disapprove the request within
20 thirty (30) days of receipt.

21 c. If, upon investigation, the Commissioner finds that
22 any statement of fact in the request is found to be
23 knowingly false, the health benefit plan may be
24 subject to suspension or loss of license or any other

1 penalty as determined by the Commissioner, or the
2 State Commissioner of Health with regard to health
3 maintenance organizations.

4 SECTION 4. AMENDATORY 36 O.S. 2011, Section 6060.13, is
5 amended to read as follows:

6 Section 6060.13. A. The Insurance Commissioner shall analyze
7 any direct incremental impact on premium costs pursuant to the
8 requirements of Section ~~2 of this act~~ 6060.11 of this title. The
9 Commissioner shall submit a report of all preliminary data and
10 findings to the Governor, the President Pro Tempore of the Senate
11 and the Speaker of the House of Representatives by May 1, 2000, with
12 subsequent updates submitted by November 1, 2000; May 1, 2001;
13 November 1, 2001; May 1, 2002, and November 1, 2002.

14 B. 1. The Commissioner shall submit a final report to the
15 Governor, the President Pro Tempore of the Senate and the Speaker of
16 the House of Representatives by December 1, 2002, which shall
17 include, but not be limited to, the collection and analysis of data
18 provided by health benefit plans, including, but not limited to:

- 19 a. a determination of the average premium increase
20 directly attributable to providing benefits for
21 treatment of ~~severe mental illness~~ health and
22 substance use disorders pursuant to the provisions of
23 Section ~~2 of this act~~ 6060.11 of this title by health
24 benefit plans in this state incurred during the first

1 year of implementation of ~~this act~~ Section 6060.10 et
2 seq. of this title, and any additional premium
3 increases incurred during the second and third year of
4 implementation,

5 b. information on the number of claims filed and the
6 total amount expended on those claims for benefits for
7 treatment of ~~severe~~ mental ~~illness~~ health and
8 substance use disorders,

9 c. information on the utilization of services listed in
10 subsection ~~B~~ C of Section ~~2 of this act~~ 6060.11 of
11 this title, and

12 d. actuarial assumptions used in determining premium
13 costs for providing the required benefits.

14 2. The final report shall also include, to the extent possible,
15 an analysis of any other direct or indirect benefit of requiring
16 benefits for treatment of ~~severe~~ mental ~~illness~~ health and substance
17 use disorders.

18 C. 1. All health benefit plans shall provide the data required
19 by this subsection in such form and at such time as the Commissioner
20 shall prescribe.

21 2. The Commissioner shall compile and report the data provided
22 by the health benefit plans in such a way as to keep individual plan
23 information confidential, unless the plan gives explicit permission
24 to release such identifiable information.

1 D. If the report required by subsection A of this section shows
2 that the cumulative average premium increase incurred during the
3 first three (3) years of implementation of ~~this act~~ Section 6060.10
4 et seq. of this title that is directly attributable to the provision
5 of benefits for treatment of ~~severe mental illness~~ health and
6 substance use disorders is greater than six percent (6%), the
7 requirements of Section 2 of this act shall terminate May 1, 2003,
8 and any agreement, contract or policy issued after May 1, 2003,
9 shall not be required to provide benefits for treatment of ~~severe~~
10 ~~mental illness~~ health and substance use disorders.

11 SECTION 5. This act shall become effective November 1, 2020.

12 Passed the Senate the 11th day of March, 2020.

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Presiding Officer of the Senate

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16 Passed the House of Representatives the ____ day of _____,

17 2020.

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Presiding Officer of the House
of Representatives

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