

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1718, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Montgomery

Montgomery-CB-FS-Req#3997
3/9/2020 3:56 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1718

By: Montgomery and Haste of the
Senate

6 and

7 Echols and West (Josh) of
the House

8
9
10 FLOOR SUBSTITUTE

11 [health insurance - mental health conditions and
12 substance use disorders - annual report - effective
date]

13
14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

18 Section 6060.10. As used in this act:

19 1. "Base period" means the period of coverage pursuant to the
20 issuance or renewal of a health benefit plan that is required to
21 provide benefits pursuant to the provisions of Section 6060.11 of
22 this title;

23 2. ~~a.~~ "Health benefit plan" means any plan or arrangement as
24 defined in subsection C of Section 6060.4 of this

1 title, ~~except as provided in subparagraph b of this~~
2 ~~paragraph.~~

3 ~~b. The term "health benefit plan" shall not include~~
4 ~~individual plans;~~

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

11 ~~"Severe mental illness" means any of the following biologically~~
12 ~~based mental illnesses for which the diagnostic criteria are~~
13 ~~prescribed in the most recent edition of the Diagnostic and~~
14 ~~Statistical Manual of Mental Disorders:~~

- 15 ~~a. schizophrenia,~~
- 16 ~~b. bipolar disorder (manic-depressive illness),~~
- 17 ~~c. major depressive disorder,~~
- 18 ~~d. panic disorder,~~
- 19 ~~e. obsessive compulsive disorder, and~~
- 20 ~~f. schizoaffective disorder; and~~

21 4. ~~"Small employer" means any person, firm, corporation,~~
22 ~~partnership, limited liability company, association, or other legal~~
23 ~~entity that is actively engaged in business that, on at least fifty~~
24 ~~percent (50%) of its working days during the preceding calendar~~

1 ~~year, employed no more than fifty (50) employees who work on a full-~~
2 ~~time basis, which means an employee has a normal work week of~~
3 ~~twenty-four (24) or more hours~~ "Mental health and substance use
4 disorder" means any condition or disorder involving a mental health
5 condition or substance use disorder listed under any of the
6 diagnostic categories in the mental disorders section of the most
7 recent edition of the International Classification of Disease or in
8 the mental disorders section of the most recent version of the
9 Diagnostic and Statistical Manual of Mental Disorders; and
10 5. "Mental health and substance use disorder benefits" means
11 benefits covering items or services for mental health conditions or
12 substance use disorders, as defined under the terms of the health
13 benefit plan and in accordance with applicable federal and state
14 law. Any condition defined by the plan as a mental health condition
15 or not a mental health condition shall be consistent with the
16 definition of that condition included in generally recognized
17 independent standards of current medical practice, including but not
18 limited to the most recent version of the Diagnostic and Statistical
19 Manual of Mental Disorders or the most recent edition of the
20 International Classification of Disease.

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

23 Section 6060.11. A. Subject to the limitations set forth in
24 this section and Sections 6060.12 and 6060.13 of this title, any

1 health benefit plan that is offered, issued, or renewed in this
2 state on or after the effective date of this act shall provide
3 benefits for treatment of ~~severe mental illness~~ health and substance
4 use disorders.

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

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

- 17 a. coverage of inpatient hospital services for either
- 18 twenty-six (26) days or the limit for other covered
- 19 illnesses, whichever is greater,
- 20 b. coverage of outpatient services,
- 21 c. coverage of medication,
- 22 d. maximum lifetime benefits,
- 23 e. copayments,
- 24 f. coverage of home health visits,

1 g. individual and family deductibles, and

2 h. coinsurance.

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

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

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

20 D. All health benefit plans must meet the requirements of the
21 federal Paul Wellstone and Pete Domenici Mental Health Parity and
22 Addiction Equity Act of 2008, as amended, and federal guidance or
23 regulations issued under these acts including 45 CFR 146.136, 45 CFR
24 147.160 and 45 CFR 156.115(a) (3).

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

6 1. A description of the process used to develop or select the
7 medical necessity criteria for mental health and substance use
8 disorder benefits and the process used to develop or select the
9 medical necessity criteria for medical and surgical benefits;

10 2. Identification of all nonquantitative treatment limitations
11 applied to both mental health and substance use disorder benefits
12 and medical and surgical benefits within each classification of
13 benefits; and

14 3. The results of an analysis that demonstrates that for the
15 medical necessity criteria described in paragraph 1 of this
16 subsection and for each nonquantitative treatment limitation
17 identified in paragraph 2 of this subsection, as written and in
18 operation, the processes, strategies, evidentiary standards or other
19 factors used in applying the medical necessity criteria and each
20 nonquantitative treatment limitation to mental health and substance
21 use disorder benefits within each classification of benefits are
22 comparable to and are applied no more stringently than to medical
23 and surgical in the same classification of benefits. At a minimum,
24 the results of the analysis shall:

- 1 a. identify the factors used to determine that a
2 nonquantitative treatment limitation will apply to a
3 benefit including factors that were considered but
4 rejected,
- 5 b. identify and define the specific evidentiary standards
6 used to define the factors and any other evidence
7 relied upon in designing each nonquantitative
8 treatment limitation,
- 9 c. provide the comparative analyses including the results
10 of the analyses performed to determine that the
11 processes and strategies used to design each
12 nonquantitative treatment limitation, as written, and
13 the as written processes and strategies used to apply
14 the nonquantitative treatment limitation to mental
15 health and substance use disorder benefits are
16 comparable to and applied no more stringently than the
17 processes and strategies used to design each
18 nonquantitative treatment limitation, as written, and
19 the as written processes and strategies used to apply
20 the nonquantitative treatment limitation to medical
21 and surgical benefits,
- 22 d. provide the comparative analyses including the results
23 of the analyses performed to determine that the
24 processes and strategies used to apply each

1 nonquantitative treatment limitation, in operation,
2 for mental health and substance use disorder benefits
3 are comparable to and applied no more stringently than
4 the processes or strategies used to apply each
5 nonquantitative treatment limitation for medical and
6 surgical benefits in the same classification of
7 benefits, and

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

16 F. The Commissioner shall implement and enforce any applicable
17 provisions of the Paul Wellstone and Pete Domenici Mental Health
18 Parity and Addiction Equity Act of 2008, as amended, and federal
19 guidance or regulations issued under these acts including 45 CFR
20 146.136, 45 CFR 147.136, 45 CFR 147.160 and 45 CFR 156.115(a)(3).

21 G. No later than June 1, 2021, and by June 1 of each year
22 thereafter, the Commissioner shall make available to the public the
23 reports submitted by insurers, as required in subsection E of this
24 section, during the most recent annual cycle; provided, however,

1 that any information that is confidential or a trade secret shall be
2 redacted.

3 1. The Commissioner shall identify insurers that have failed in
4 whole or in part to comply with the full extent of reporting
5 required in this section and shall make a reasonable attempt to
6 obtain missing reports or information by June 1 of the following
7 year.

8 2. The reports submitted by insurers and the identification by
9 the Commissioner of noncompliant insurers shall be made available to
10 the public by posting on the Internet website of the Insurance
11 Department.

12 H. The Commissioner shall promulgate rules pursuant to the
13 provisions of this section and any provisions of the Paul Wellstone
14 and Pete Domenici Mental Health Parity and Addiction Equity Act of
15 2008, as amended, that relate to the business of insurance.

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

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

24

1 2. To calculate base-period-premium costs, the health benefit
2 plan shall subtract from premium costs incurred during the base
3 period, both the premium costs incurred during the period
4 immediately preceding the base period and any premium cost increases
5 attributable to factors unrelated to benefits for treatment of
6 ~~severe mental illness~~ health and substance use disorders.

7 3. a. To claim the exemption provided for in subsection A of
8 this section a health benefit plan shall provide to
9 the Insurance Commissioner a written request signed by
10 an actuary stating the reasons and actuarial
11 assumptions upon which the request is based.

12 b. The Commissioner shall verify the information provided
13 and shall approve or disapprove the request within
14 thirty (30) days of receipt.

15 c. If, upon investigation, the Commissioner finds that
16 any statement of fact in the request is found to be
17 knowingly false, the health benefit plan may be
18 subject to suspension or loss of license or any other
19 penalty as determined by the Commissioner, or the
20 State Commissioner of Health with regard to health
21 maintenance organizations.

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

24

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

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

14 a. a determination of the average premium increase
15 directly attributable to providing benefits for
16 treatment of ~~severe mental illness~~ health and
17 substance use disorders pursuant to the provisions of
18 Section ~~2 of this act~~ 6060.11 of this title by health
19 benefit plans in this state incurred during the first
20 year of implementation of ~~this act~~ Section 6060.10 et
21 seq. of this title, and any additional premium
22 increases incurred during the second and third year of
23 implementation,

24

- 1 b. information on the number of claims filed and the
2 total amount expended on those claims for benefits for
3 treatment of ~~severe mental illness~~ health and
4 substance use disorders,
- 5 c. information on the utilization of services listed in
6 subsection ~~B C~~ of Section ~~2 of this act~~ 6060.11 of
7 this title, and
- 8 d. actuarial assumptions used in determining premium
9 costs for providing the required benefits.

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

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

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

21 D. If the report required by subsection A of this section shows
22 that the cumulative average premium increase incurred during the
23 first three (3) years of implementation of ~~this act~~ Section 6060.10
24 et seq. of this title that is directly attributable to the provision

1 of benefits for treatment of ~~severe~~ mental ~~illness~~ health and
2 substance use disorders is greater than six percent (6%), the
3 requirements of Section 2 of this act shall terminate May 1, 2003,
4 and any agreement, contract or policy issued after May 1, 2003,
5 shall not be required to provide benefits for treatment of ~~severe~~
6 mental ~~illness~~ health and substance use disorders.

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

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9 57-2-3997 CB 3/9/2020 3:56:47 PM

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