

1 **SENATE FLOOR VERSION**

2 February 26, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1718

5 By: Montgomery and Haste of the  
6 Senate

7 and

8 Echols and West (Josh) of  
9 the House

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

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

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

16 Section 6060.10. As used in this act:

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

21 2. ~~a.~~ "Health benefit plan" means any plan or arrangement as  
22 defined in subsection C of Section 6060.4 of this  
23 title, ~~except as provided in subparagraph b of this~~  
24 ~~paragraph.~~

1           ~~b. The term "health benefit plan" shall not include~~  
2           ~~individual plans;~~

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

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

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

19           4. ~~"Small employer" means any person, firm, corporation,~~  
20 ~~partnership, limited liability company, association, or other legal~~  
21 ~~entity that is actively engaged in business that, on at least fifty~~  
22 ~~percent (50%) of its working days during the preceding calendar~~  
23 ~~year, employed no more than fifty (50) employees who work on a full-~~  
24 ~~time basis, which means an employee has a normal work week of~~

1 ~~twenty-four (24) or more hours~~ "Mental health and substance use  
2 disorder" means any condition or disorder involving a mental health  
3 condition or substance use disorder listed under any of the  
4 diagnostic categories in the mental disorders section of the most  
5 recent edition of the International Classification of Disease or in  
6 the mental disorders section of the most recent version of the  
7 Diagnostic and Statistical Manual of Mental Disorders; and  
8 5. "Mental health and substance use disorder benefits" means  
9 benefits for the treatment of a mental health and substance use  
10 disorder.

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

13 Section 6060.11. A. Subject to the limitations set forth in  
14 this section and Sections 6060.12 and 6060.13 of this title, any  
15 health benefit plan that is offered, issued, or renewed in this  
16 state on or after the effective date of this act shall provide  
17 benefits for treatment of ~~severe mental illness~~ health conditions  
18 and substance use disorders.

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

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1        ~~C.~~ 1. Benefits for mental health conditions and substance use  
2 disorders, ~~including, but not limited to those required by~~  
3 ~~subsection A of this section, and for substance abuse disorder as~~  
4 ~~provided in subsection B of this section~~ shall be equal to benefits  
5 for treatment of and shall be subject to the same preauthorization  
6 and utilization review mechanisms and other terms and conditions as  
7 all other physical diseases and disorders, including, but not  
8 limited to:

- 9            a. coverage of inpatient hospital services for either
- 10            twenty-six (26) days or the limit for other covered
- 11            illnesses, whichever is greater,
- 12            b. coverage of outpatient services,
- 13            c. coverage of medication,
- 14            d. maximum lifetime benefits,
- 15            e. copayments,
- 16            f. coverage of home health visits,
- 17            g. individual and family deductibles, and
- 18            h. coinsurance.

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

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

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

12 D. All health benefit plans must meet the requirements of the  
13 federal Paul Wellstone and Pete Domenici Mental Health Parity and  
14 Addiction Equity Act of 2008, as amended, and federal guidance or  
15 regulations issued under these acts including 45 CFR 146.136, 45 CFR  
16 147.160 and 45 CFR 156.115(a) (3).

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

22 1. A description of the process used to develop or select the  
23 medical necessity criteria for mental health and substance use  
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1 disorder benefits and the process used to develop or select the  
2 medical necessity criteria for medical and surgical benefits;

3 2. Identification of all nonquantitative treatment limitations  
4 applied to both mental health and substance use disorder benefits  
5 and medical and surgical benefits within each classification of  
6 benefits; and

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

18 a. identify the factors used to determine that a  
19 nonquantitative treatment limitation will apply to a  
20 benefit including factors that were considered but  
21 rejected,

22 b. identify and define the specific evidentiary standards  
23 used to define the factors and any other evidence

1 relied upon in designing each nonquantitative  
2 treatment limitation,

3 c. provide the comparative analyses including the results  
4 of the analyses performed to determine that the  
5 processes and strategies used to design each  
6 nonquantitative treatment limitation, as written, and  
7 the as written processes and strategies used to apply  
8 the nonquantitative treatment limitation to mental  
9 health and substance use disorder benefits are  
10 comparable to and applied no more stringently than 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 medical  
15 and surgical benefits,

16 d. provide the comparative analyses including the results  
17 of the analyses performed to determine that the  
18 processes and strategies used to apply each  
19 nonquantitative treatment limitation, in operation,  
20 for mental health and substance use disorder benefits  
21 are comparable to and applied no more stringently than  
22 the processes or strategies used to apply each  
23 nonquantitative treatment limitation for medical and  
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1 surgical benefits in the same classification of  
2 benefits, and

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

11 F. The Commissioner shall implement and enforce any applicable  
12 provisions of the Paul Wellstone and Pete Domenici Mental Health  
13 Parity and Addiction Equity Act of 2008, as amended, and federal  
14 guidance or regulations issued under these acts including 45 CFR  
15 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a) (3).

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

22 1. The Commissioner shall identify insurers that have failed in  
23 whole or in part to comply with the full extent of reporting  
24 required in this section and shall make a reasonable attempt to

1 obtain missing reports or information by June 1 of the following  
2 year.

3 2. The reports submitted by insurers and the identification by  
4 the Commissioner of non-compliant insurers shall be made available  
5 to the public by posting on the Internet website of the Insurance  
6 Department.

7 H. The Commissioner shall promulgate rules pursuant to the  
8 provisions of this section and any provisions of the Paul Wellstone  
9 and Pete Domenici Mental Health Parity and Addiction Equity Act of  
10 2008, as amended, that relate to the business of insurance.

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

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

20 2. To calculate base-period-premium costs, the health benefit  
21 plan shall subtract from premium costs incurred during the base  
22 period, both the premium costs incurred during the period  
23 immediately preceding the base period and any premium cost increases

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1 attributable to factors unrelated to benefits for treatment of  
2 ~~severe mental illness~~ health and substance use disorders.

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

8               b.     The Commissioner shall verify the information provided  
9               and shall approve or disapprove the request within  
10              thirty (30) days of receipt.

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

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

20       Section 6060.13.   A.   The Insurance Commissioner shall analyze  
21       any direct incremental impact on premium costs pursuant to the  
22       requirements of Section ~~2 of this act~~ 6060.11 of this title.   The  
23       Commissioner shall submit a report of all preliminary data and  
24       findings to the Governor, the President Pro Tempore of the Senate

1 and the Speaker of the House of Representatives by May 1, 2000, with  
2 subsequent updates submitted by November 1, 2000; May 1, 2001;  
3 November 1, 2001; May 1, 2002, and November 1, 2002.

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

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

19 b. information on the number of claims filed and the  
20 total amount expended on those claims for benefits for  
21 treatment of ~~severe mental illness~~ health and  
22 substance use disorders,

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

4 d. actuarial assumptions used in determining premium  
5 costs for providing the required benefits.

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

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

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

17 D. If the report required by subsection A of this section shows  
18 that the cumulative average premium increase incurred during the  
19 first three (3) years of implementation of ~~this act~~ Section 6060.10  
20 et seq. of this title that is directly attributable to the provision  
21 of benefits for treatment of ~~severe mental illness~~ health and  
22 substance use disorders is greater than six percent (6%), the  
23 requirements of Section 2 of this act shall terminate May 1, 2003,  
24 and any agreement, contract or policy issued after May 1, 2003,

1 shall not be required to provide benefits for treatment of ~~severe~~  
2 mental ~~illness~~ health and substance use disorders.

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

4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
5 February 26, 2020 - DO PASS AS AMENDED  
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