

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1718

By: Montgomery

4
5
6 AS INTRODUCED

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;
25 authorizing the Commissioner to promulgate rules;
26 conforming language; and providing an effective date.

18
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

22 Section 6060.10. As used in this act:

23 1. "Base period" means the period of coverage pursuant to the
24 issuance or renewal of a health benefit plan that is required to
25

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 for the treatment of a mental health and substance use
16 disorder.

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

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

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

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

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

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

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

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

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

23 E. Beginning on or after the effective date of this act, each
24 insurer that offers, issues or renews any individual or group health

1 benefit plan providing mental health or substance use disorder
2 benefits shall submit an annual report to the Insurance Commissioner
3 on or before April 1 of each year that contains the following:

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

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

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

23 a. identify the factors used to determine that a
24 nonquantitative treatment limitation will apply to a

1 benefit including factors that were considered but
2 rejected,

3 b. identify and define the specific evidentiary standards
4 used to define the factors and any other evidence
5 relied upon in designing each nonquantitative
6 treatment limitation,

7 c. provide the comparative analyses including the results
8 of the analyses performed to determine that the
9 processes and strategies used to design each
10 nonquantitative treatment limitation, as written, and
11 the as written processes and strategies used to apply
12 the nonquantitative treatment limitation to mental
13 health and substance use disorder benefits are
14 comparable to and applied no more stringently than the
15 processes and strategies used to design each
16 nonquantitative treatment limitation, as written, and
17 the as written processes and strategies used to apply
18 the nonquantitative treatment limitation to medical
19 and surgical benefits;

20 d. provide the comparative analyses including the results
21 of the analyses performed to determine that the
22 processes and strategies used to apply each
23 nonquantitative treatment limitation, in operation,
24 for mental health and substance use disorder benefits

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

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

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

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

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

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

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

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

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

23 2. To calculate base-period-premium costs, the health benefit
24 plan shall subtract from premium costs incurred during the base
25

1 period, both the premium costs incurred during the period
2 immediately preceding the base period and any premium cost increases
3 attributable to factors unrelated to benefits for treatment of
4 ~~severe mental illness~~ health and substance use disorders.

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

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

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

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

22 Section 6060.13. A. The Insurance Commissioner shall analyze
23 any direct incremental impact on premium costs pursuant to the
24 requirements of Section ~~2 of this act~~ 6060.11 of this title. The
25

1 Commissioner shall submit a report of all preliminary data and
2 findings to the Governor, the President Pro Tempore of the Senate
3 and the Speaker of the House of Representatives by May 1, 2000, with
4 subsequent updates submitted by November 1, 2000; May 1, 2001;
5 November 1, 2001; May 1, 2002, and November 1, 2002.

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

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

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

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

5 57-2-2607 CB 1/16/2020 4:04:12 PM
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25