



SPONSOR: Sen. Townsend & Rep. Bentz  
Sens. Ennis, Hansen; Reps. Heffernan, Keeley, Kowalko,  
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DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 100

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO COVERAGE FOR SERIOUS MENTAL ILLNESS AND DRUG AND ALCOHOL DEPENDENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3343, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly as follows:

§ 3343. Insurance coverage for serious mental illness.

(a) Definitions. — For the purposes of this section, the following words and phrases shall have the following meanings:

(1) "ASAM criteria" means the comprehensive set of guidelines for placement, continued stay, and transfer or discharge of patients with addiction established by the American Society of Addiction Medicine ("ASAM") for use in determining medically necessary treatment.

(2) "Health benefit plan" means any hospital or medical policy or certificate, major medical expense insurance, health service corporation subscriber contract, or health maintenance organization subscriber contract. Health benefit plan does not include accident-only, credit, dental, vision, ~~Medicaid plans~~, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical payment insurance.

Section 2. Amend § 3343, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3343. Insurance coverage for serious mental illness.

(b) Coverage of serious mental illnesses and drug and alcohol dependencies. —

(1)a. Carriers shall provide coverage for serious mental illnesses and drug and alcohol dependencies in all health benefit plans delivered or issued for delivery in this State. Coverage for serious mental illnesses and drug and alcohol dependencies must provide:

1. Inpatient coverage for the diagnosis and treatment of drug and alcohol dependencies.

22 2. Unlimited medically necessary treatment for drug and alcohol dependencies as required by the  
23 Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a) and determined by the  
24 use of the full set of ASAM criteria, in all of the following: ~~provided in residential settings as~~  
25 ~~required by the Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a).~~

26 A. Treatment provided in residential setting.

27 B. Intensive Outpatient Programs.

28 C. Inpatient withdrawal management.

29 Section 3. Amend § 3343, Title 18 of the Delaware Code by making deletions as shown by strike through and  
30 insertions as shown by underline as follows:

31 § 3343. Insurance coverage for serious mental illness.

32 (d) Benefit management. —

33 (1) A carrier may, directly or by contract with another qualified entity, manage the benefit prescribed by  
34 subsection (b) of this section in order to limit coverage of services provided in the diagnosis and treatment of a  
35 serious mental illness and drug and alcohol dependency to those services that are deemed medically necessary as  
36 follows:

37 c. The benefit prescribed by subsection (b)(1) of this section may not be subject to concurrent  
38 utilization review during the first 14 days of any inpatient admission to a facility approved by a nationally  
39 recognized healthcare accrediting organization or the Division of Substance Abuse and Mental Health, 30  
40 days of Intensive Outpatient Program treatment, or 5 days of inpatient withdrawal management, provided  
41 that the facility notifies the carrier of both the admission and the initial treatment plan within 48 hours of  
42 the admission. The facility shall perform daily clinical review of the patient, including the periodic  
43 consultation with the carrier to ensure that the facility is using the evidence-based and peer reviewed  
44 clinical review tool utilized by the carrier which is designated by the American Society of Addiction  
45 Medicine (“ASAM”) or, if applicable, any state-specific ASAM criteria, and appropriate to the age of the  
46 patient, to ensure that the inpatient treatment is medically necessary for the patient.

47 d. Any utilization review of treatment provided under subsection (b)(1) of this section may include a  
48 review of all services provided during such inpatient treatment, including all services provided during the  
49 first 14 days of such inpatient ~~treatment;~~ treatment, 30 days of Intensive Outpatient Program treatment, or  
50 5 days of inpatient withdrawal management; provided, however, the carrier may only deny coverage for  
51 any portion of the initial 14 day inpatient treatment on the basis that such treatment was not medically

necessary if such inpatient treatment was contrary to the evidence-based and peer reviewed clinical review tool utilized by the carrier which is designated by ASAM or, if applicable, any state-specific ASAM criteria.

Section 4. Amend § 3578, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline and redesignating accordingly as follows:

§ 3578. Insurance coverage for serious mental illness.

(a) Definitions. — For the purposes of this section, the following words and phrases shall have the following meanings:

(1) “ASAM criteria” means the comprehensive set of guidelines for placement, continued stay, and transfer or discharge of patients with addiction established by the American Society of Addiction Medicine (“ASAM”) for use in determining medically necessary treatment.

Section 5. Amend § 3578, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3578. Insurance coverage for serious mental illness.

(a) Definitions. — For the purposes of this section, the following words and phrases shall have the following meanings:

(2) "Health benefit plan" means any hospital or medical policy or certificate, major medical expense insurance, health service corporation subscriber contract, or health maintenance organization subscriber contract. Health benefit plan does not include accident-only, credit, dental, vision, ~~Medicaid plans~~, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical payment insurance.

Section 6. Amend § 3578, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3578. Insurance coverage for serious mental illness.

(b) Coverage of serious mental illnesses and drug and alcohol dependencies. —

(1)a. Carriers shall provide coverage for serious mental illnesses and drug and alcohol dependencies in all health benefit plans delivered or issued for delivery in this State. Coverage for serious mental illnesses and drug and alcohol dependencies must provide:

1. Inpatient coverage for the diagnosis and treatment of drug and alcohol dependencies.

2. Unlimited medically necessary treatment for drug and alcohol dependencies as required by the Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a) and determined by the use of the full set of ASAM criteria, in all of the following: ~~provided in residential settings as required by the Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a).~~

A. Treatment provided in residential setting.

B. Intensive Outpatient Programs.

C. Inpatient withdrawal management.

Section 7. Amend § 3578, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3578. Insurance coverage for serious mental illness.

(d) Benefit management. —

(1) A carrier may, directly or by contract with another qualified entity, manage the benefit prescribed by subsection (b) of this section in order to limit coverage of services provided in the diagnosis and treatment of a serious mental illness and drug and alcohol dependency to those services that are deemed medically necessary as follows:

c. The benefit prescribed by subsection (b)(1) of this section may not be subject to concurrent utilization review during the first 14 days of any inpatient admission to a facility approved by a nationally recognized healthcare accrediting organization or the Division of Substance Abuse and Mental Health, 30 days of Intensive Outpatient Program treatment, or 5 days of inpatient withdrawal management, provided that the facility notifies the carrier of both the admission and the initial treatment plan within 48 hours of the admission. The facility shall perform daily clinical review of the patient, including the periodic consultation with the carrier to ensure that the facility is using the evidence-based and peer reviewed clinical review tool utilized by the carrier which is designated by the American Society of Addiction Medicine (“ASAM”) or, if applicable, any state-specific ASAM criteria, and appropriate to the age of the patient, to ensure that the inpatient treatment is medically necessary for the patient.

d. Any utilization review of treatment provided under subsection (b)(1) of this section may include a review of all services provided during such inpatient treatment, including all services provided during the first 14 days of such inpatient ~~treatment;~~ treatment, 30 days of Intensive Outpatient Program treatment, or 5 days of inpatient withdrawal management; provided, however, the carrier may only deny coverage for any portion of the initial 14 day inpatient treatment on the basis that such treatment was not medically

111 necessary if such inpatient treatment was contrary to the evidence-based and peer reviewed clinical  
112 review tool utilized by the carrier which is designated by ASAM or, if applicable, any state-specific  
113 ASAM criteria.

#### SYNOPSIS

Individuals who receive health care via Medicaid deserve the same dedication to treatment of substance abuse disorders as individuals who receive health care via private insurance. This Act extends the same access to treatment of a substance use disorder within the Medicaid framework that Senate Bill 41 of the 149th General Assembly afforded to individuals covered by private health insurance. This Act also clarifies that Medicaid health plans must use the full set of American Society of Addiction Medicine criteria when determining whether “medical necessity” exists for the placement, continued stay, and transfer/discharge of patients with a substance use disorder in treatment programs. Additionally, this Act aligns protections relating to services, specifically 5 days of treatment in detox centers and 30 days of treatment in Intensive Outpatient Programs, with the residential treatment option that is protected pursuant to Senate Bill 41 of the 149th General Assembly.

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