



SPONSOR: Sen. Townsend & Rep. Bentz  
Sen. Henry

DELAWARE STATE SENATE  
149th GENERAL ASSEMBLY

SENATE BILL NO. 230

AN ACT TO AMEND TITLE 18 AND TITLE 31 OF THE DELAWARE CODE RELATING TO INSURANCE  
COVERAGE FOR SERIOUS MENTAL ILLNESS AND DRUG AND ALCOHOL DEPENDENCY.

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

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

3 § 3343. Insurance coverage for serious mental illness.

4 (g) Reporting requirements.— All carriers must submit an annual report to the Commissioner on or  
5 before July 1 of each year beginning in 2019 that contains the following information:

6 (1) A description of the process used to develop or select the medical necessity criteria for  
7 mental illness and drug and alcohol dependencies benefits and the process used to develop or select the medical  
8 necessity criteria for medical and surgical benefits.

9 (2) Identification of all non-quantitative treatment limitations (NQTLs) that are applied to mental  
10 illness and drug and alcohol dependencies benefits and medical and surgical benefits within each classification of  
11 benefits; there may be no separate NQTLs that apply to mental illness and drug and alcohol dependencies benefits  
12 that do not also apply to medical and surgical benefits within any classification of benefits.

13 (3) The results of an analysis that demonstrates that for the medical necessity criteria described  
14 in paragraph (1) and for each NQTL identified in paragraph (2), as written and in operation, the processes,  
15 strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to  
16 mental illness and drug and alcohol dependencies benefits within each classification of benefits are comparable to,  
17 and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in  
18 applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding  
19 classification of benefits; at a minimum, the results of the analysis shall:

20 a. Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were  
21 considered but rejected.

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

23 relied upon in designing each NQTL.

24 c. Provide the comparative analyses, including the results of the analyses, performed to determine that the  
25 processes and strategies used to design each NQTL, as written, for mental illness and drug and alcohol  
26 dependencies benefits are comparable to, and are applied no more stringently than, the processes and strategies  
27 used to design each NQTL, as written, for medical and surgical benefits.

28 d. Provide the comparative analyses, including the results of the analyses, performed to determine that the  
29 processes and strategies used to apply each NQTL, in operation, for mental illness and drug and alcohol  
30 dependencies benefits are comparable to, and applied no more stringently than, the processes or strategies used to  
31 apply each NQTL, in operation, for medical and surgical benefits.

32 e. Disclose the specific findings and conclusions reached by the carrier that the results of the analyses  
33 above indicate that the carrier is in compliance with this section and the Mental Health Parity and Addiction  
34 Equity Act of 2008 and its implementing regulations, which includes 45 CFR 146.136, 45 CFR 147.160, and any  
35 other related federal regulations found in the Code of Federal Regulations.

36 ~~(g)~~(h) Nothing in this section shall be construed to limit or reduce any benefit, entitlement, or coverage  
37 conferred by § 3366 of this title including, but not limited to, provider and service eligibility.

38 Section 2. Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and  
39 insertions as shown by underline as follows:

40 § 3571T. Mental Health Parity and Addiction Equity Act Reporting Requirements.

41 (a) All health insurers offering group health insurance coverage that provide mental illness and drug and  
42 alcohol dependencies benefits must submit an annual report to the Commissioner on or before July 1 of each year  
43 beginning in 2019 that contains the following information:

44 (1) A description of the process used to develop or select the medical necessity criteria for  
45 mental illness and drug and alcohol dependencies benefits and the process used to develop or select the medical  
46 necessity criteria for medical and surgical benefits.

47 (2) Identification of all non-quantitative treatment limitations (NQTLs) that are applied to mental  
48 illness and drug and alcohol dependencies benefits and medical and surgical benefits within each classification of  
49 benefits; there may be no separate NQTLs that apply to mental illness and drug and alcohol dependencies benefits  
50 that do not also apply to medical and surgical benefits within any classification of benefits.

51 (3) The results of an analysis that demonstrates that for the medical necessity criteria described

52 in paragraph (1) and for each NQTL identified in paragraph (2), as written and in operation, the processes,  
53 strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to  
54 mental illness and drug and alcohol dependencies benefits within each classification of benefits are comparable to,  
55 and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in  
56 applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding  
57 classification of benefits; at a minimum, the results of the analysis shall:

58 a. Identify the factors used to determine that an NQTL will apply to a benefit, including factors  
59 that were considered but rejected.

60 b. Identify and define the specific evidentiary standards used to define the factors and any other  
61 evidence relied upon in designing each NQTL.

62 c. Provide the comparative analyses, including the results of the analyses, performed to  
63 determine that the processes and strategies used to design each NQTL, as written, for mental illness and drug and  
64 alcohol dependencies benefits are comparable to, and are applied no more stringently than, the processes and  
65 strategies used to design each NQTL, as written, for medical and surgical benefits.

66 d. Provide the comparative analyses, including the results of the analyses, performed to  
67 determine that the processes and strategies used to apply each NQTL, in operation, for mental illness and drug and  
68 alcohol dependencies benefits are comparable to, and applied no more stringently than, the processes or strategies  
69 used to apply each NQTL, in operation, for medical and surgical benefits.

70 e. Disclose the specific findings and conclusions reached by the insurer that the results of the  
71 analyses above indicate that the carrier is in compliance with this section and the Mental Health Parity and  
72 Addiction Equity Act of 2008 and its implementing regulations, which includes 45 CFR 146.136 and any other  
73 related federal regulations found in the Code of Federal Regulations.

74 Section 3. Amend § 525, Title 31 of the Delaware Code by making deletions as shown by strike through and  
75 insertions as shown by underline as follows:

76 § 525 Insurance coverage for serious mental illness and drug and alcohol dependency for recipients of aid under  
77 § 505(3) of this title.

78 (f) Reporting requirements.— Each carrier must submit a report to the Department on or before  
79 July 1, 2019, and any year thereafter during which the carrier makes significant changes to how it designs and  
80 applies its medical management protocols; the report must contain the following information:

81 (1) A description of the process used to develop or select the medical necessity criteria for

82 mental illness and drug and alcohol dependencies benefits and the process used to develop or select the medical  
83 necessity criteria for medical and surgical benefits.

84 (2) As requested by the Department, identification of select non-quantitative treatment  
85 limitations (NQTLs) that are applied to mental illness and drug and alcohol dependencies benefits and medical and  
86 surgical benefits within each classification of benefits; there may be no separate NQTLs that apply to mental  
87 illness and drug and alcohol dependencies benefits that do not also apply to medical and surgical benefits within  
88 any classification of benefits.

89 (3) The results of an analysis that demonstrates that for the medical necessity criteria described  
90 in paragraph (1) and for each NQTL identified in paragraph (2), as written and in operation, the processes,  
91 strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to  
92 mental illness and drug and alcohol dependencies benefits within each classification of benefits are comparable to,  
93 and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in  
94 applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding  
95 classification of benefits; at a minimum, the results of the analysis shall:

96 a. Identify the factors used to determine that an NQTL will apply to a benefit, including factors  
97 that were considered but rejected.

98 b. Identify and define the specific evidentiary standards used to define the factors and any other  
99 evidence relied upon in designing each NQTL.

100 c. Provide the comparative analyses, including the results of the analyses, performed to  
101 determine that the processes and strategies used to design each NQTL, as written, for mental illness and drug and  
102 alcohol dependencies benefits are comparable to, and are applied no more stringently than, the processes and  
103 strategies used to design each NQTL, as written, for medical and surgical benefits.

104 d. Provide the comparative analyses, including the results of the analyses, performed to  
105 determine that the processes and strategies used to apply each NQTL, in operation, for mental illness and drug and  
106 alcohol dependencies benefits are comparable to, and applied no more stringently than, the processes or strategies  
107 used to apply each NQTL, in operation, for medical and surgical benefits.

108 e. Disclose the specific findings and conclusions reached by the carrier that the results of the  
109 analyses above indicate that the carrier is in compliance with this section and the Mental Health Parity and  
110 Addiction Equity Act of 2008 and its implementing regulations, which includes Subpart K of Part 438 of 42 CFR  
111 and any other related federal regulations found in the Code of Federal Regulations.

### SYNOPSIS

This bill amends Title 18 of the Delaware Code, § 3343, by setting annual reporting requirements for insurance carriers with regard to coverage for serious mental illness and drug and alcohol dependencies.

This bill also amends Chapter 35, Title 18 of the Delaware Code by adding a new § 3571T to set annual reporting requirements for insurance carriers providing mental illness and drug and alcohol dependencies benefits, and the carriers' compliance with the Mental Health Parity and Addiction Equity Act of 2008.

This bill also amends Title 31 of the Delaware Code, § 525, by setting annual reporting requirements for insurance carriers regarding coverage for serious mental illness and drug and alcohol dependencies for recipients of public assistance.

Author: Senator Townsend