



SPONSOR: Rep. Bentz & Sen. Townsend
Reps. Baumbach, Brady, Briggs King, Hensley,
K. Johnson, Kowalko, Minor-Brown, Seigfried,
Michael Smith; Sens. Brown, Ennis, Hansen, Lockman,
Sokola, Sturgeon

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 220

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO INSURANCE COVERAGE FOR
DRUG AND ALCOHOL DEPENDENCY AND MEDICATION ASSISTED TREATMENT.

1 WHEREAS, the federal government has declared a state of emergency in response to the national opioid epidemic;
2 and

3 WHEREAS, the State of Delaware lost over 400 Delawareans to overdose deaths in 2018; and

4 WHEREAS, after losing 345 residents in 2017, Delaware was tied for the fifth highest overdose rate in the nation;
5 and

6 WHEREAS, after a lengthy evaluation of Delaware's response to the opioid epidemic, the Pew Charitable Trust
7 determined that "less than half of Delawareans needing treatment for opioid use disorder receive it"; and

8 WHEREAS, Medication Assisted Treatment ("MAT") therapies are evidence-based modalities for treating
9 substance use disorder ("SUD") and maintaining long term recovery; and

10 WHEREAS, people with SUD who incorporate MAT therapies into their long-term recovery plans are able to exit
11 government assistance and entitlements and secure and maintain stable employment, allowing them to obtain private health
12 insurance benefits from the marketplace; and

13 WHEREAS, MAT therapies are often not covered under private health insurance, jeopardizing the long-term
14 recovery plans of individuals who can no longer afford MAT therapy; and

15 WHEREAS, federal and State parity legislation requires that insurers provide behavioral health coverage at a rate
16 equal to that of their physical health coverage; and

17 WHEREAS, when MAT is prescribed to individuals with SUD, it is a medically necessary therapy for maintaining
18 long-term recovery and therefore sustained employment; and

19 WHEREAS, true parity is achieved when those with behavioral health needs can seek out treatment without
20 barriers, and only then does the stigma associated with substance use disorder and mental health issues decrease.

21 NOW, THEREFORE:

22 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 as follows and by redesignating Delaware Code provisions and internal references accordingly:

§ 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: section:

() “FDA” means the U.S. Food and Drug Administration.

(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:~~ provide all of the following:

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:

A. Treatment provided in residential setting.

B. Intensive outpatient programs.

C. Inpatient withdrawal management.

b. Subject to subsections (a), (c) through (f), and (h) of this section, no carrier may issue for delivery, or deliver, in this State any health benefit plan containing terms that place a greater financial burden on an insured for covered services provided in the diagnosis and treatment of a serious mental illness and drug and alcohol dependency than for covered services provided in the diagnosis and treatment of any other illness or disease covered by the health benefit plan. ~~By way of example, such terms include plan, including terms for~~ deductibles, co-pays, monetary limits, coinsurance factors, limits in the numbers of visits, limits in the length of inpatient stays, durational ~~limits~~ limits, or limits in the coverage of prescription medicines.

(3) A health benefit plan that provides coverage for prescription drugs must place at least 1 formulation of a prescription medication approved by the FDA for the treatment of drug and alcohol dependencies on the lowest tier of the drug formulary developed and maintained by the carrier, including each of the following:

a. Buprenorphine.

b. Naltrexone.

53 c. Naloxone.

54 d. A product containing both buprenorphine and naloxone.

55 (4) A health benefit plan that provides coverage for prescription drugs must cover the fees associated with the
56 administration or dispensing of methadone dispensed at an opioid treatment program as defined under 42 C.F.R. § 8.2.

57 (c) Eligibility for coverage. —

58 (1) Subject to the limitations set forth in under subsection (d) of this section, a health benefit plan may
59 condition coverage of services provided in the diagnosis and treatment of a serious mental illness and drug and alcohol
60 dependency on any of the further requirements following requirements; that the service or services:

61 ~~(1) Must~~ a. That the services must be rendered by a mental health professional licensed or certified by the State
62 Board of Licensing including, but not limited to, psychologists, psychiatrists, social workers, and other such mental health
63 professionals, or a drug and alcohol counselor who has been certified by the Delaware Certified Alcohol and Drug
64 Counselors Certification Board, or in a mental health facility licensed by the State or in a treatment facility approved by the
65 Department of Health and Social Services or the Bureau of Alcoholism and Drug Abuse as set forth in Chapter 22 of Title
66 ~~16~~ Title 16, or substantially similar licensing entities in other ~~states;~~ states.

67 ~~(2) Must~~ b. That the services must be medically ~~necessary; and~~ necessary.

68 ~~(3) Must~~ c. That the services must be covered services subject to any administrative requirements of the
69 health benefit plan.

70 (2) A health benefit plan may further condition coverage of services provided in the diagnosis and treatment
71 of a serious mental illness and drug and alcohol dependency in the same manner and to the same extent as coverage for
72 all other illnesses and diseases is conditioned. Such conditions may include, by way of example, and not by way of
73 limitation, include precertification and referral requirements.

74 (d) Benefit management. —

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

78 a. The management of benefits for serious mental illnesses and drug and alcohol dependencies may be by
79 methods used for the management of benefits provided for other medical conditions, or may be by management
80 methods unique to mental health benefits. ~~Such may include, by way of example and not limitation, benefits,~~
81 including pre-admission screening, prior authorization of services, utilization review review, and the development
82 and monitoring of treatment plans.

b. A carrier may not impose precertification, prior authorization, pre-admission screening, or referral requirements for the diagnosis and medically necessary ~~treatment, including in-patient treatment, treatment of drug and alcohol dependencies.~~ dependencies, including inpatient treatment or on a prescription medication under paragraph (b)(3) of this section.

f. A carrier may not impose a step therapy requirement before the carrier will authorize coverage for a prescription medication under paragraph (b)(3) of this section.

(e) Exclusions. —

This section ~~shall~~ does not apply to plans or policies not within the definition of health benefit plan, as set out in subsection (a) of this section.

(i) This section does not apply to plans of health insurance or health benefits designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act, 42 U.S.C. §§ 1395 et seq., 1396 et seq., and 1397aa et seq., known as Medicare, Medicaid, or any other similar coverage under a State or federal government plan.

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

§ 3571V. Medication Assisted Treatment for Drug and Alcohol Dependencies.

(a) If group health insurance coverage provides prescription medication benefits for the treatment of mental illness and drug and alcohol dependencies, a health insurer must place at least 1 formulation of a prescription medication approved by the U.S. Food and Drug Administration (FDA) for the treatment of drug and alcohol dependencies on the lowest tier of the drug formulary developed and maintained by the carrier, including each of the following:

(1) Buprenorphine.

(2) Naltrexone.

(3) Naloxone.

(4) A product containing both buprenorphine and naloxone.

(b) A health insurer that provides coverage for prescription drugs must cover the fees associated with the administration or dispensing of methadone dispensed at an opioid treatment program as defined under 42 C.F.R. § 8.2.

(c) A health insurer shall provide benefits under this section as follows:

(1) Not impose a prior authorization requirement.

(2) Not impose a step therapy requirement before the health insurer will authorize coverage.

SYNOPSIS

This Act adds coverage for Medication Assisted Treatment ("MAT") for drug and alcohol dependencies to the mental health parity laws for health insurance. This Act requires health insurance carriers to provide coverage for

prescription medications approved by the U.S. Food and Drug Administration for MAT at no greater financial burden than for prescription medication for other illness or disease, without step therapy requirements, and at the lowest tier of the drug formulary.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.