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Sen. Poore

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Sokola, Sturgeon

HOUSE OF REPRESENTATIVES 150th GENERAL ASSEMBLY

HOUSE BILL NO. 307

AN ACT TO AMEND TITLES 18, 29, AND 31 OF THE DELAWARE CODE RELATING TO MENTAL HEALTH.

1	WHEREAS, the federal government passed the 2008 Mental Health Parity and Addiction Act effectively making
2	it illegal for health insurance plans to inequitably cover mental health and substance use disorder services compared to that
3	of their physical health plans; and
4	WHEREAS, approximately 1 in 5 Americans experience mental illness or disorder in a given year and mental
5	illness is associated with an increase in chronic disease; and
6	WHEREAS, approximately 1 in 5 Americans experience mental illness or disorder in a given year and mental
7	illness is associated with an increase in chronic disease; and
8	WHEREAS, mental health issues come at a cost of almost \$200 billion in lost wages and almost \$100 billion in
9	healthcare costs nationally; and
10	WHEREAS, mental health issues come at a cost of almost \$200 billion in lost wages and almost \$100 billion in
11	healthcare costs nationally; and
12	WHEREAS, it is proven that childhood trauma unaddressed via screening and treatment lead to increased mental
13	health disorders, substance use disorders, as well as higher rates of incarceration and negative health behaviors resulting in
14	heightened cost for individuals across their lifespan; and
15	WHEREAS, it is proven that childhood trauma unaddressed via screening and treatment lead to increased mental
16	health disorders, substance use disorders, as well as higher rates of incarceration and negative health behaviors resulting in
17	heightened cost for individuals across their lifespan; and
18	WHEREAS, parity determines health insurance plans that offer annual physical examinations, annual child well
19	visits or annual gynecological exams must then offer annual well visits for behavioral health; and
20	WHEREAS, true parity is achieved and perceptions are changed when those with behavioral health needs can seek
21	and access healthcare without unnecessary barriers that is equal to that of their physical health needs.

Page 1 of 8

HD: NSW: MAW 2141500269

22

NOW, THEREFORE:

23	BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:
24	Section 1. Amend Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike through and
25	insertions as shown by underline as follows:
26	§ 3370D. Annual Behavioral Health Well Check.
27	(a) As used in this section:
28	(1) "Behavioral health well check" means an annual visit with a licensed mental health clinician with at
29	minimum a masters level degree. The well check must include but not be limited to a review of medical history;
30	evaluation of adverse childhood experiences; use of appropriate battery of validated mental health screening tools; and
31	may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual
32	behavioral health well check".
33	(2) "Carrier" means any entity that provides health insurance in this State. For the purposes of this section,
34	"carrier" includes an insurance company, health service corporation, health maintenance organization, and any other
35	entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also
36	includes any third-party administrator or other entity that adjusts, administers, or settles claims in connection with
37	health benefit plans.
38	(b) All carriers shall provide coverage of an annual behavioral health well check, which shall be reimbursed
39	through the following common procedural terminology (CPT) codes at the same rate that such CPT codes are reimbursed
40	for the provision of other medical care, provided that reimbursement may be adjusted for payment of claims that are billed
41	by a non-physician clinician so long as the methodology to determine such adjustments is comparable to and applied no
42	more stringently than the methodology for adjustments made for reimbursement of claims billed by non-physician
43	clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4):
44	<u>(1) 99381.</u>
45	<u>(2) 99382.</u>
46	<u>(3) 99383.</u>
47	<u>(4) 99384.</u>
48	<u>(5) 99385.</u>
49	<u>(6) 99386.</u>
50	<u>(7) 99387.</u>
51	<u>(8) 99391.</u>
52	<u>(9) 99392.</u>

HD: NSW: MAW 2141500269

53	<u>(10) 99393.</u>
54	<u>(11) 99394.</u>
55	<u>(12) 99395.</u>
56	<u>(13) 99396.</u>
57	<u>(14) 99397.</u>
58	(15) The Commissioner shall update this list of codes through the promulgation of rules if the CPT codes
59	listed in this subsection are altered, amended, changed, deleted, or supplemented to.
60	(16) Reimbursement of any of the above CPT codes for the purpose of covering an annual behavioral health
61	well check shall not be denied because such CPT codes was already reimbursed for the purpose of covering a service
62	other than an annual behavioral health well check.
63	(17) Reimbursement of any of the above CPT codes for the purpose of covering a service other than an annual
64	behavioral health well check shall not be denied because such CPT codes was already reimbursed for the purpose of
65	covering an annual behavioral health well check.
66	(c) Nothing shall preclude an annual behavioral health well check from being reimbursed through a value-based
67	arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that
68	is not a traditional fee-for-service arrangement.
69	(d) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
70	primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary
71	care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
72	professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary
73	care.
74	Section 2. Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and
75	insertions as shown by underline as follows:
76	§ 3571Y. Annual Behavioral Health Well Check.
77	(a) As used in this section:
78	(1) "Behavioral health well check" means an annual visit with a licensed mental health clinician with at
79	minimum a masters level degree. The well check must include but not be limited to a review of medical history;
80	evaluation of adverse childhood experiences; use of a validated mental health screening tool; and may include
81	anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual behavioral health

well check".

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83	(2) "Carrier" means any entity that provides health insurance in this State. For the purposes of this section,
84	"carrier" includes an insurance company, health service corporation, health maintenance organization, and any other
85	entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also
86	includes any third-party administrator or other entity that adjusts, administers, or settles claims in connection with
87	health benefit plans.
88	(b) All carriers shall provide coverage of an annual behavioral health well check, which shall be reimbursed
89	through the following common procedural terminology (CPT) codes at the same rate that such CPT codes are reimbursed
90	for the provision of other medical care, provided that reimbursement may be adjusted for payment of claims that are billed
91	by a non-physician clinician so long as the methodology to determine such adjustments is comparable to and applied no
92	more stringently than the methodology for adjustments made for reimbursement of claims billed by non-physician
93	clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4):
94	<u>(1) 99381.</u>
95	<u>(2) 99382.</u>
96	<u>(3) 99383.</u>
97	<u>(4) 99384.</u>
98	<u>(5) 99385.</u>
99	<u>(6) 99386.</u>
100	<u>(7) 99387.</u>
101	<u>(8) 99391.</u>
102	<u>(9) 99392.</u>
103	<u>(10) 99393.</u>
104	<u>(11) 99394.</u>
105	<u>(12) 99395.</u>
106	<u>(13) 99396.</u>
107	<u>(14) 99397.</u>
108	(15) The Commissioner shall update this list of codes through the promulgation of rules if the CPT codes
109	listed in this subsection are altered, amended, changed, deleted, or supplemented to.
110	(16) Reimbursement of any of the above CPT codes for the purpose of covering an annual behavioral health
111	well check shall not be denied because such CPT codes was already reimbursed for the purpose of covering a service

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other than an annual behavioral health well check.

113	(17) Reimbursement of any of the above CPT codes for the purpose of covering a service other than an annual
114	behavioral health well check shall not be denied because such CPT codes was already reimbursed for the purpose of
115	covering an annual behavioral health well check.
116	(c) Nothing shall preclude an annual behavioral health well check from being reimbursed through a value-based
117	arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that
118	is not a traditional fee-for-service arrangement.
119	(d) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
120	primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary
121	care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
122	professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary
123	care.
124	Section 3. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strike through and
125	insertions as shown by underline as follows:
126	§ 528. Annual Behavioral Health Well Check.
127	(a) As used in this section:
128	(1) "Behavioral health well check" means an annual visit with a licensed mental health clinician with at
129	minimum a masters level degree. The well check must include but not be limited to a review of medical history;
130	evaluation of adverse childhood experiences; use of a validated mental health screening tool; and may include
131	anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual behavioral health
132	well check".
133	(2) "Carrier" means any entity that provides health insurance under § 505(3) of this title.
134	(b) All carriers shall provide coverage of an annual behavioral health well check, which shall be reimbursed
135	through the following common procedural terminology (CPT) codes at the same rate that such CPT codes are reimbursed
136	for the provision of other medical care, provided that reimbursement may be adjusted for payment of claims that are billed
137	by a non-physician clinician so long as the methodology to determine such adjustments is comparable to and applied no
138	more stringently than the methodology for adjustments made for reimbursement of claims billed by non-physician
139	clinicians for other medical care, in accordance with 42 CFR 438.910(d)(1):
140	<u>(1) 99381.</u>
141	<u>(2) 99382.</u>
142	<u>(3) 99383.</u>

143	<u>(4) 99384.</u>
144	<u>(5) 99385.</u>
145	<u>(6) 99386.</u>
146	<u>(7) 99387.</u>
147	<u>(8) 99391.</u>
148	<u>(9) 99392.</u>
149	(10) 99393.
150	(11) 99394.
151	<u>(12) 99395.</u>
152	<u>(13) 99396.</u>
153	<u>(14) 99397.</u>
154	(15) The Commissioner shall update this list of codes through the promulgation of rules if the CPT codes
155	listed in this subsection are altered, amended, changed, deleted, or supplemented to.
156	(16) Reimbursement of any of the above CPT codes for the purpose of covering an annual behavioral health
157	well check shall not be denied because such CPT codes was already reimbursed for the purpose of covering a service
158	other than an annual behavioral health well check.
159	(17) Reimbursement of any of the above CPT codes for the purpose of covering a service other than an annual
160	behavioral health well check shall not be denied because such CPT codes was already reimbursed for the purpose of
161	covering an annual behavioral health well check.
162	(c) Nothing shall preclude an annual behavioral health well check from being reimbursed through a value-based
163	arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that
164	is not a traditional fee-for-service arrangement.
165	(d) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
166	primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary
167	care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
168	professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary
169	<u>care.</u>
170	Section 4. Amend Chapter 52, Title 29 of the Delaware Code by making deletions as shown by strike through and
171	insertions as shown by underline as follows:
172	§ 5212. Annual Behavioral Health Well Check.

173	(a) As used in this section:
174	(1) "Behavioral health well check" means an annual visit with a licensed mental health clinician with at
175	minimum a masters level degree. The well check must include but not be limited to a review of medical history;
176	evaluation of adverse childhood experiences; use of a validated mental health screening tool; and may include
177	anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual behavioral health
178	well check".
179	(b) The plan shall provide coverage of an annual behavioral health well check, which shall be reimbursed through
180	the following common procedural terminology (CPT) codes at the same rate that such CPT codes are reimbursed for the
181	provision of other medical care, provided that reimbursement may be adjusted for payment of claims that are billed by a
182	non-physician clinician so long as the methodology to determine such adjustments is comparable to and applied no more
183	stringently than the methodology for adjustments made for reimbursement of claims billed by non-physician clinicians for
184	other medical care, in accordance with 45 CFR 146.136(c)(4):
185	<u>(1) 99381.</u>
186	<u>(2) 99382.</u>
187	<u>(3) 99383.</u>
188	<u>(4) 99384.</u>
189	<u>(5) 99385.</u>
190	<u>(6) 99386.</u>
191	<u>(7) 99387.</u>
192	<u>(8) 99391.</u>
193	<u>(9) 99392.</u>
194	<u>(10) 99393.</u>
195	<u>(11) 99394.</u>
196	<u>(12) 99395.</u>
197	<u>(13) 99396.</u>
198	<u>(14) 99397.</u>
199	(15) The State Employee Benefits Committee shall update this list of codes if the CPT codes listed in this

subsection are altered, amended, changed, deleted, or supplemented to.

HD: NSW: MAW 2141500269

200

201	(16) Reimbursement of any of the above CPT codes for the purpose of covering an annual behavioral health
202	well check shall not be denied because such CPT codes was already reimbursed for the purpose of covering a service
203	other than an annual behavioral health well check.
204	(17) Reimbursement of any of the above CPT codes for the purpose of covering a service other than an annual
205	behavioral health well check shall not be denied because such CPT codes was already reimbursed for the purpose of
206	covering an annual behavioral health well check.
207	(c) Nothing shall preclude an annual behavioral health well check from being reimbursed through a value-based
208	arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that
209	is not a traditional fee-for-service arrangement.
210	(d) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
211	primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary
212	care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
213	professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary

SYNOPSIS

This bill amends Chapter 33, Title 18 of the Delaware Code by adding a new § 3370D to require coverage of an annual behavioral health well check.

This bill also amends Chapter 35, Title 18 of the Delaware Code by adding a new § 3571X to require coverage of an annual behavioral health well check.

This bill also amends Chapter 5, Title 31 of the Delaware Code by adding a new § 528 to require coverage of an annual behavioral health well check.

This bill also amends Chapter 52, Title 29 of the Delaware Code by adding a new § 5212 to require coverage of an annual behavioral health well check.

HD: NSW: MAW 2141500269

214

care.