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
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

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

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

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

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

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

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

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

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

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

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

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

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LC : HVW : NMX : 5081500177

NOW, THEREFORE:

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.

( ) "Medication-assisted treatment" means the use of FDA-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of drug and alcohol dependencies.

(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 medication-assisted treatment on the lowest tier of the drug formulary developed and maintained by the carrier, including each of the following:

a. Buprenorphine.

b. Naltrexone.

c. Naloxone.

d. A product containing both buprenorphine and naloxone.

(4) A health benefit plan 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) Eligibility for coverage. —

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

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

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

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

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

(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:

a. The management of benefits for serious mental illnesses and drug and alcohol dependencies may be by methods used for the management of benefits provided for other medical conditions, or may be by management methods unique to mental health ~~benefits. Such may include, by way of example and not limitation,~~ benefits, including pre-admission screening, prior authorization of services, utilization ~~review~~ review, and the development 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 must authorize coverage of prescription medicine without imposing a step therapy requirement for at least 1 formulation of each prescription medication for medication-assisted treatment that is on each tier of the drug formulary developed and maintained by the carrier.

(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 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) For purposes of this section, "medication-assisted treatment" means the use of U.S. Food and Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of drug and alcohol dependencies.

(b) 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 medication-assisted treatment 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.

(c) 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.

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

(1) Not impose a prior authorization requirement.

(2) Must authorize coverage of prescription medicine without imposing a step therapy requirement for at least 1 formulation of each prescription medication for medication-assisted treatment that is on each tier of the drug formulary developed and maintained by the health insurer.

Section 3. If this Act is enacted into law in 2019, this Act applies to insurance policies, plans, and contracts that are issued, entered into, or renewed on or after January 1, 2020.

Section 4. If this Act is enacted into law in 2020, this Act applies to insurance policies, plans, and contracts that are issued, entered into, or renewed on or after January 1, 2021.