



SPONSOR: Rep. Longhurst & Rep. Griffith & Rep. Heffernan &
Rep. Minor-Brown & Rep. Briggs King & Sen. Poore
Reps. Baumbach, Carson, K. Johnson, Mitchell,
S. Moore, Morrison, K. Williams, Wilson-Anton; Sens.
Gay, Mantzavinos, Pettyjohn, Sturgeon, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 303
AS AMENDED BY
HOUSE AMENDMENT NO. 2

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 it
2 illegal for health insurance plans to inequitably cover mental health and substance use disorder services compared to that of
3 their physical health services; and

4 WHEREAS, the State of Delaware is ranked 35th highest in the country for prevalence of mental health illness and
5 substance use disorders; and

6 WHEREAS, the COVID-19 public health crisis has caused an increase in pediatric psychiatric related emergency
7 room visits in the United States by 51% from 2020 to 2021 while decreasing adult admissions for the treatment of substance
8 use disorders and mental health illness; and

9 WHEREAS, mental health issues come at a cost of almost \$200 billion in lost wages and almost \$100 billion in
10 healthcare costs nationally; and

11 WHEREAS, it is proven that childhood trauma unaddressed via screening and treatment lead to increased mental
12 health disorders, substance use disorders, as well as higher rates of incarceration and negative health behaviors resulting in
13 heightened cost for individuals across their lifespan; and

14 WHEREAS, a multidiscipline analysis by the National Academies of Sciences, Engineering and Medicine
15 determined that every dollar of investment in mental health and addiction prevention programs yields a 2 to 10 times savings
16 in health care, criminal and juvenile justice and low productivity costs; and

17 WHEREAS, parity requires health insurance plans that offer annual physical examinations, annual child well visits
18 or annual gynecological exams must then offer annual well visits for behavioral health; and

19 WHEREAS true parity cannot be achieved until perceptions are changed when those with behavioral health needs
20 can seek and access healthcare without unnecessary barriers that is equal to that of their physical health needs.

21 NOW, THEREFORE:

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

23 Section 1. Amend Subchapter I, Chapter 33, Title 18 of the Delaware Code by making deletions as shown by strike
24 through and insertions as shown by underline as follows:

25 § 3370E. Annual behavioral health well check.

26 (a) As used in this section:

27 (1) "Behavioral health well check" means a pre-deductible annual visit with a licensed mental health clinician
28 with at minimum a masters level degree. The well check must include but is not limited to a review of medical history,
29 evaluation of adverse childhood experiences, use of a group of developmentally appropriate mental health screening
30 tools, and may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual
31 behavioral health well check."

32 (2) "Carrier" means any entity that provides health insurance in this State that is subject to the provisions of this
33 chapter. "Carrier" includes an insurance company, health service corporation, health maintenance organization, and any
34 other entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also
35 includes any third-party administrator or other entity that adjusts, administers, or settles claims in connection with health
36 benefit plans.

37 (b) All carriers shall provide coverage of an annual behavioral health well check, which, except as provided in
38 subsection (d) of this section, shall be reimbursed through the following common procedural terminology (CPT) codes at the
39 same rate that such CPT codes are reimbursed for the provision of other medical care, provided that reimbursement may be
40 adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to determine such
41 adjustments is comparable to and applied no more stringently than the methodology for adjustments made for reimbursement
42 of claims billed by non-physician clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4):

43 (1) 99381.

44 (2) 99382.

45 (3) 99383.

46 (4) 99384.

47 (5) 99385.

48 (6) 99386.

49 (7) 99387.

50 (8) 99391.

51 (9) 99392.

52 (10) 99393.

53 (11) 99394.

54 (12) 99395.

55 (13) 99396.

56 (14) 99397.

57 (c) (1) The Commissioner shall update this list of codes through the promulgation of rules if the CPT codes listed in
58 subsection (b) of this section are altered, amended, changed, deleted, or supplemented.

59 (2) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under
60 paragraph (c)(1) of this section for the purpose of covering an annual behavioral health well check may not be denied
61 because such CPT code was already reimbursed for the purpose of covering a service other than an annual behavioral
62 health well check.

63 (3) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under
64 paragraph (c)(1) of this section for the purpose of covering a service other than an annual behavioral health well check
65 may not be denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral
66 health well check.

67 (d) An annual behavioral health well check may be reimbursed through a value-based arrangement, a capitated
68 arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for-
69 service arrangement, provided that a carrier must have documentation demonstrating that within such payment arrangement
70 the annual behavioral health well check is valued commensurate to the value established under subsection (b) of this section.

71 (e) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
72 primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary
73 care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
74 professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary
75 care.

76 (f) Nothing in this section prevents the operation of policy provisions such as copayments, coinsurance, allowable
77 charge limitations, coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified, or
78 carrier-approved providers or facilities.

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

81 § 3571Z. Annual behavioral health well check.

82 (a) As used in this section:

83 (1) "Behavioral health well check" means a pre-deductible annual visit with a licensed mental health clinician
84 with at minimum a masters level degree. The well check must include but is not limited to a review of medical history,
85 evaluation of adverse childhood experiences, use of a group of developmentally appropriate mental health screening
86 tools, and may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual
87 behavioral health well check."

88 (2) "Carrier" means any entity that provides health insurance in this State that is subject to this subchapter.
89 "Carrier" includes an insurance company, health service corporation, health maintenance organization, and any other
90 entity providing a plan of health insurance or health benefits subject to state insurance regulation. "Carrier" also includes
91 any third-party administrator or other entity that adjusts, administers, or settles claims in connection with health benefit
92 plans.

93 (b) All carriers shall provide coverage of an annual behavioral health well check, which, except as provided in
94 subsection (d) of this section, shall be reimbursed through the following common procedural terminology (CPT) codes at the
95 same rate that such CPT codes are reimbursed for the provision of other medical care, provided that reimbursement may be
96 adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to determine such
97 adjustments is comparable to and applied no more stringently than the methodology for adjustments made for reimbursement
98 of claims billed by non-physician clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4):

99 (1) 99381.

100 (2) 99382.

101 (3) 99383.

102 (4) 99384.

103 (5) 99385.

104 (6) 99386.

105 (7) 99387.

106 (8) 99391.

107 (9) 99392.

108 (10) 99393.

109 (11) 99394.

110 (12) 99395.

111 (13) 99396.

112 (14) 99397.

113 (c) (1) The Commissioner shall update this list of codes through the promulgation of rules if the CPT codes listed
114 in subsection (b) of this section are altered, amended, changed, deleted, or supplemented.

115 (2) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under
116 paragraph (c)(1) of this section for the purpose of covering an annual behavioral health well check may not be denied
117 because such CPT code was already reimbursed for the purpose of covering a service other than an annual behavioral
118 health well check.

119 (3) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under
120 paragraph (c)(1) of this section for the purpose of covering a service other than an annual behavioral health well check
121 may not be denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral
122 health well check.

123 (d) An annual behavioral health well check may be reimbursed through a value-based arrangement, a capitated
124 arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for-
125 service arrangement, provided that a carrier must have documentation demonstrating that within such payment arrangement
126 the annual behavioral health well check is valued commensurate to the value established under subsection (b) of this section.

127 (e) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
128 primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary care
129 behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
130 professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary care.

131 (f) Nothing in this section prevents the operation of policy provisions such as copayments, coinsurance, allowable
132 charge limitations, coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified, or
133 carrier-approved providers or facilities.

134 Section 3. Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strike through and
135 insertions as shown by underline as follows:

136 § 530. Annual behavioral health well check.

137 (a) As used in this section:

138 (1) “Behavioral health well check” means a pre-deductible annual visit with a licensed mental health clinician
139 with at minimum a masters level degree. The well check must include but is not limited to a review of medical history,
140 evaluation of adverse childhood experiences, use of a group of developmentally appropriate mental health screening
141 tools, and may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of “annual
142 behavioral health well check.”

143 (2) “Carrier” means any entity that provides health insurance under § 505(3) of this title.

144 (b) All carriers shall provide coverage of an annual behavioral health well check, which, except as provided in
145 subsection (d) of this section, shall be reimbursed through the following common procedural terminology (CPT) codes at the
146 same rate that such CPT codes are reimbursed for the provision of other medical care, provided that reimbursement may be
147 adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to determine such
148 adjustments is comparable to and applied no more stringently than the methodology for adjustments made for reimbursement
149 of claims billed by non-physician clinicians for other medical care, in accordance with 42 CFR 438.910(d)(1):

150 (1) 99381.

151 (2) 99382.

152 (3) 99383.

153 (4) 99384.

154 (5) 99385.

155 (6) 99386.

156 (7) 99387.

157 (8) 99391.

158 (9) 99392.

159 (10) 99393.

160 (11) 99394.

161 (12) 99395.

162 (13) 99396.

163 (14) 99397.

164 (c) (1) The Director of the Division of Medicaid and Medical Assistance shall update this list of codes through the
165 promulgation of rules if the CPT codes listed in subsection (b) of this section are altered, amended, changed, deleted, or
166 supplemented.

167 (2) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under
168 paragraph (c)(1) of this section for the purpose of covering an annual behavioral health well check may not be denied
169 because such CPT code was already reimbursed for the purpose of covering a service other than an annual behavioral
170 health well check.

171 (3) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under
172 paragraph (c)(1) of this section for the purpose of covering a service other than an annual behavioral health well check
173 may not be denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral
174 health well check.

175 (d) An annual behavioral health well check may be reimbursed through a value-based arrangement, a capitated
176 arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for-
177 service arrangement, provided that a carrier must have documentation demonstrating that within such payment arrangement
178 the annual behavioral health well check is valued commensurate to the value established under subsection (b) of this section.

179 (e) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
180 primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary care
181 behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
182 professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary care.

183 (f) Nothing in this section prevents the operation of policy provisions such as copayments, coinsurance, allowable
184 charge limitations, coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified, or
185 carrier-approved providers or facilities.

186 Section 4. Amend Chapter 52, Title 29 of the Delaware Code by making deletions as shown by strike through and
187 insertions as shown by underline as follows:

188 § 5215. Annual behavioral health well check.

189 (a) As used in this section “Behavioral health well check” means a pre-deductible annual visit with a licensed mental
190 health clinician with at minimum a masters level degree. The well check must include but is not limited to a review of medical
191 history, evaluation of adverse childhood experiences, use of a group of developmentally appropriate mental health screening
192 tools, and may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of “annual
193 behavioral health well check.”

194 (b) The plan shall provide coverage of an annual behavioral health well check, which , except as provided in
195 subsection (d) of this section, shall be reimbursed through the following common procedural terminology (CPT) codes at the
196 same rate that such CPT codes are reimbursed for the provision of other medical care, provided that reimbursement may be

197 adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to determine such
198 adjustments is comparable to and applied no more stringently than the methodology for adjustments made for reimbursement
199 of claims billed by non-physician clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4):

200 (1) 99381.

201 (2) 99382.

202 (3) 99383.

203 (4) 99384.

204 (5) 99385.

205 (6) 99386.

206 (7) 99387.

207 (8) 99391.

208 (9) 99392.

209 (10) 99393.

210 (11) 99394.

211 (12) 99395.

212 (13) 99396.

213 (14) 99397.

214 (c) (1) The State Employee Benefits Committee shall administratively update this list of codes if the CPT codes
215 listed in subsection (b) of this section are altered, amended, changed, deleted, or supplemented.

216 (2) Reimbursement of any of the CPT codes listed in subsection (b) of this section or updated under paragraph
217 (c)(1) of this section for the purpose of covering an annual behavioral health well check may not be denied because such
218 CPT code was already reimbursed for the purpose of covering a service other than an annual behavioral health well
219 check.

220 (3) Reimbursement of any of the CPT codes listed in subsection (b) of this section or updated under paragraph
221 (c)(1) of this section for the purpose of covering a service other than an annual behavioral health well check may not be
222 denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral health well
223 check.

224 (d) An annual behavioral health well check may be reimbursed through a value-based arrangement, a capitated
225 arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for-

226 service arrangement, provided that a carrier must have documentation demonstrating that within such payment arrangement
227 the annual behavioral health well check is valued commensurate to the value established under subsection (b) of this section.

228 (e) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated
229 primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary care
230 behavioral health model or behavioral health consultant model, any model that involves co-location of mental health
231 professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary care.

232 (f) Nothing in this section prevents the operation of policy provisions such as copayments, coinsurance, allowable
233 charge limitations, coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified, or
234 carrier-approved providers or facilities.

235 Section 5. For the purposes of this implementing this Act, there is created an advisory committee whose mandate is
236 to create a developmentally appropriate design for the annual behavioral health well check established under this legislation.
237 The advisory committee shall commence work as soon as practicable after the enactment of this Act and shall hold its first
238 meeting within 90 days of the enactment of this Act. The advisory committee shall finalize all work within six months of the
239 enactment of this legislation, and deliver its recommendations to the Secretary of the Department of Health and Human
240 Services, as well as the chairperson of the House Health and Human Development Committee and the Senate Health and
241 Social Services Committee. The advisory committee shall seek to design the annual behavioral health well check in a manner
242 that is reflective of existing annual physical health well checks and include questions and anticipatory guidance specific to
243 each respective age group. The advisory committee shall include all of the following members:

244 (1) Two actively practicing pediatric behavioral health clinicians, one of whom shall specialize in the treatment of
245 adolescents, appointed by the Speaker of the House.

246 (2) Two actively practicing adult behavioral health clinicians, one of whom shall specialize in the treatment of
247 geriatric populations, appointed by the Speaker of the House.

248 (3) One actively practicing women's behavioral health clinician, appointed by the Senate President Pro Tempore.

249 (4) Two behavioral health policy advocates, one of whom is a specialist in behavioral health policy advocacy at the
250 national level and one of whom is a specialist in behavioral health policy advocacy at the local level, appointed by the Speaker
251 of the House.

252 (5) Two actively practicing primary care physicians, appointed by Senate President Pro Tempore.

253 (6) The President of the Delaware Healthcare Association, or the President's designee.

254 (7) The Secretary of the Department of Health and Social Services, or the Secretary's designee, in an ex officio
255 capacity.

256 (8) The Insurance Commissioner, or the Commissioner's designee, in an ex officio capacity.
257 The advisory council may call upon any state agency for assistance, information, or data that may be necessary to carry out
258 the purposes for which it is established. For administrative and budgetary
259 purposes only, the advisory council shall be placed within the Department of Health and Social Services, Office of the
260 Secretary. For the purposes of convening an organizational meeting, the behavioral health policy advocate who specializes
261 in local advocacy shall serve as chair of the advisory council. A permanent chair and vice chair shall be elected by the
262 members from those among those appointed to serve. In making appointments, the Speaker and President Pro Tempore, shall
263 attempt to include in the appointed members of the advisory committee at least one psychiatrist, one clinical psychologist,
264 one psychiatric nurse practitioner, one licensed clinical social worker, and one additional physician or nurse practitioner.

265 Section 6. Sections 1 through 4 of this Act take effect on January 1, 2024.