S T A T E O F N E W Y O R K

1235

2011-2012 Regular Sessions

I N S E N A T E

January 6, 2011

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to providing certain coverage for diagnosis and treatment of chemical abuse and chemical dependence

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 6 of subsection (l) of section 3221 of the insurance law, as amended by chapter 558 of the laws of 1999, is amended to read as follows:

(6) (A) Every insurer delivering a group or school blanket policy or issuing a group or school blanket policy for delivery, in this state, which provides coverage for inpatient hospital care [must make available and, if requested by the policyholder,] OR COVERAGE FOR PHYSICIAN SERVICES SHALL provide AS PART OF SUCH POLICY BROAD-BASED coverage for the diagnosis and treatment of chemical abuse and chemical dependence, however defined in such policy, AT LEAST EQUAL TO THE COVERAGE PROVIDED FOR OTHER HEALTH CONDITIONS, provided, however, that the term chemical abuse shall mean and include alcohol and substance abuse and chemical dependence shall mean and include alcoholism and substance dependence, however defined in such policy. [Written notice of the availability of such coverage shall be delivered to the policyholder prior to inception of such group policy and annually thereafter, except that this notice shall not be required where a policy covers two hundred or more employees or where the benefit structure was the subject of collective bargaining affecting persons who are employed in more than one state.]

(B) Such coverage shall, WHERE THE POLICY PROVIDES COVERAGE FOR INPATIENT HOSPITAL CARE, be at least equal to the following:

(i) with respect to benefits for detoxification as a consequence of chemical dependence, inpatient benefits in a hospital or a detoxifica-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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tion facility may not be limited to less than seven days of active treatment in any CONTRACT YEAR, PLAN YEAR, OR calendar year; and

(ii) with respect to benefits for rehabilitation services, such benefits may not be limited to less than thirty days of inpatient care in any calendar year.

(C) Such coverage may be limited to facilities in New York state which are certified by the office of alcoholism and substance abuse services and, in other states, to those which are accredited by the joint commission on accreditation of hospitals as alcoholism, substance abuse or chemical dependence treatment programs.

(D) Such coverage shall be [made available] PROVIDED at the inception of all new policies and with respect to all other policies at any anniversary date of the policy [subject to evidence of insurability].

(E) Such coverage may be subject to annual deductibles, CO-PAYS and co-insurance as may be deemed appropriate by the superintendent and are consistent with those imposed on other benefits [within a given] UNDER THE policy. [Further, each insurer shall report to the superintendent each year the number of contract holders to whom it has issued policies for the inpatient treatment of chemical dependence, and the approximate number of persons covered by such policies] IN THE EVENT THAT A POLICY PROVIDES COVERAGE FOR BOTH INPATIENT HOSPITAL CARE AND PHYSICIAN SERVICES, THE AGGREGATE OF THE BENEFITS FOR OUTPATIENT CARE OBTAINED UNDER THIS PARAGRAPH MAY BE LIMITED TO NOT LESS THAN SIXTY VISITS IN ANY CONTRACT YEAR, PLAN YEAR OR CALENDAR YEAR.

(F) Such coverage shall not replace, restrict or eliminate existing coverage provided by the policy.

(G) THE SUPERINTENDENT SHALL DEVELOP AND IMPLEMENT A METHODOLOGY TO FULLY COVER THE COST TO ANY GROUP PURCHASER WITH FIFTY OR FEWER EMPLOYEES THAT IS A POLICYHOLDER OF A POLICY THAT IS SUBJECT TO THE PROVISIONS OF THIS SECTION FOR PROVIDING THE COVERAGE REQUIRED IN THIS PARAGRAPH AND PARAGRAPH SEVEN OF THIS SUBSECTION. SUCH METHODOLOGY SHALL BE FINANCED FROM FUNDS FROM THE GENERAL FUND THAT SHALL BE MADE AVAILABLE TO THE SUPERINTENDENT FOR SUCH PURPOSE.

S 2. Paragraph 7 of subsection (1) of section 3221 of the insurance law, as amended by chapter 565 of the laws of 2000, is amended to read as follows:

(7) Every insurer delivering a group or school blanket policy or issuing a group or school blanket policy for delivery in this state which provides coverage for inpatient hospital care [must] OR COVERAGE FOR PHYSICIAN SERVICES SHALL provide AS PART OF SUCH POLICY coverage for at least sixty outpatient visits in any CONTRACT YEAR, PLAN YEAR OR calendar year for the diagnosis and treatment of chemical dependence of which up to twenty may be for family members, except that this provision shall not apply to a policy which covers persons employed in more than one state or the benefit structure of which was the subject of collective bargaining affecting persons who are employed in more than one state. Such coverage may be limited to facilities in New York state certified by the office of alcoholism and substance abuse services or licensed by such office as outpatient clinics or medically supervised ambulatory substance abuse programs and, in other states, to those which are accredited by the joint commission on accreditation of hospitals as alcoholism or chemical dependence treatment programs. WHERE THE POLICY PROVIDES COVERAGE FOR PHYSICIAN SERVICES, IT SHALL INCLUDE BENEFITS FOR OUTPATIENT CARE PROVIDED BY A PSYCHIATRIST OR PSYCHOLOGIST LICENSED TO PRACTICE IN THIS STATE, A LICENSED CLINICAL SOCIAL WORKER WHO MEETS THE REQUIREMENTS OF SUBPARAGRAPH (D) OF PARAGRAPH FOUR OF THIS SUBSECTION,

OR A PROFESSIONAL CORPORATION OR UNIVERSITY FACULTY PRACTICE CORPORATION THEREOF. Such coverage may be subject to annual deductibles, CO-PAYS and co-insurance as may be deemed appropriate by the superintendent and [are] SHALL BE consistent with those imposed on other benefits [within a given] UNDER THE policy. IN THE EVENT THAT A POLICY PROVIDES COVERAGE FOR BOTH INPATIENT HOSPITAL CARE AND PHYSICIAN SERVICES, THE AGGREGATE OF THE BENEFITS FOR OUTPATIENT CARE OBTAINED UNDER THIS PARAGRAPH MAY BE LIMITED TO NOT LESS THAN SIXTY VISITS IN ANY CONTRACT YEAR, PLAN YEAR OR CALENDAR YEAR. Such coverage shall not replace, restrict, or eliminate existing coverage provided by the policy. Except as otherwise provided in the applicable policy or contract, no insurer delivering a group or school blanket policy or issuing a group or school blanket policy providing coverage for alcoholism or substance abuse services pursuant to this section shall deny coverage to a family member who identifies [themself] HIMSELF OR HERSELF as a family member of a person suffering from the disease of alcoholism, substance abuse or chemical dependency and who seeks treatment as a family member who is otherwise covered by the applicable policy or contract pursuant to this section. The coverage required by this paragraph shall include treatment as a family member pursuant to such family members' own policy or contract provided such family member (i) does not exceed the allowable number of family visits provided by the applicable policy or contract pursuant to this section, and (ii) is otherwise entitled to coverage pursuant to this section and such family members' applicable policy or contract.

S 3. Subsection (k) of section 4303 of the insurance law, as amended by chapter 558 of the laws of 1999, is amended to read as follows:

(k) A hospital service corporation or a health service corporation which provides group, group remittance or school blanket coverage for inpatient hospital care [must make available and if requested by the contract holder] SHALL provide AS PART OF ITS CONTRACT BROAD-BASED coverage for the diagnosis and treatment of chemical abuse and chemical dependence, however defined in such policy, AT LEAST EQUAL TO THE COVERAGE PROVIDED FOR OTHER HEALTH CONDITIONS, provided, however, that the term chemical abuse shall mean and include alcohol and substance abuse and chemical dependence shall mean and include alcoholism and substance dependence, however defined in such policy, except that this provision shall not apply to a policy which covers persons employed in more than one state or the benefit structure of which was the subject of collective bargaining affecting persons who are employed in more than one state. Such coverage shall be at least equal to the following: (1) with respect to benefits for detoxification as a consequence of chemical dependence, inpatient benefits for care in a hospital or detoxification facility may not be limited to less than seven days of active treatment in any CONTRACT YEAR, PLAN YEAR OR calendar year; and (2) with respect to benefits for inpatient rehabilitation services, such benefits may not be limited to less than thirty days of inpatient rehabilitation in a hospital based or free standing chemical dependence facility in any CONTRACT YEAR, PLAN YEAR OR calendar year. Such coverage may be limited to facilities in New York state which are certified by the office of alcoholism and substance abuse services and, in other states, to those which are accredited by the joint commission on accreditation of hospitals as alcoholism, substance abuse, or chemical dependence treatment programs. Such coverage [shall be made available at the inception of all new policies and with respect to policies issued before the effective date of this subsection at the first annual anniversary date thereafter, without evidence of insurability and at any subsequent annual anniver-

sary date subject to evidence of insurability] MAY BE PROVIDED ON A CONTRACT YEAR, PLAN YEAR OR CALENDAR YEAR BASIS AND SHALL BE CONSISTENT WITH THE PROVISIONS OF OTHER BENEFITS UNDER THE CONTRACT. Such coverage may be subject to annual deductibles, CO-PAYS and co-insurance as may be deemed appropriate by the superintendent and are consistent with those imposed on other benefits [within a given policy. Further, each hospital service corporation or health service corporation shall report to the superintendent each year the number of contract holders to whom it has issued policies for the inpatient treatment of chemical dependence, and the approximate number of persons covered by such policies] UNDER THE CONTRACT. Such coverage shall not replace, restrict or eliminate existing coverage provided by the policy. [Written notice of the availability of such coverage shall be delivered to the group remitting agent or group contract holder prior to inception of such contract and annually thereafter, except that this notice shall not be required where a policy covers two hundred or more employees or where the benefit structure was the subject of collective bargaining affecting persons who are employed in more than one state] THE SUPERINTENDENT SHALL DEVELOP AND IMPLEMENT A METHODOLOGY TO FULLY COVER THE COST TO ANY GROUP REMITTANCE GROUP OR GROUP CONTRACT HOLDER WITH FIFTY OR FEWER EMPLOYEES WHO IS A GROUP REMITTANCE GROUP OR GROUP CONTRACT HOLDER OF A POLICY THAT IS SUBJECT TO THE PROVISIONS OF THIS SECTION FOR PROVIDING THE COVERAGE REQUIRED IN THIS SUBSECTION AND SUBSECTION (L) OF THIS SECTION. SUCH METHODOLOGY SHALL BE FINANCED FROM FUNDS FROM THE GENERAL FUND THAT SHALL BE MADE AVAILABLE TO THE SUPERINTENDENT FOR SUCH PURPOSE.

S 4. Subsection (l) of section 4303 of the insurance law, as amended by chapter 565 of the laws of 2000, is amended to read as follows:

(l) A hospital service corporation or a health service corporation which provides group, group remittance or school blanket coverage for inpatient hospital care [must] SHALL provide AS PART OF ITS CONTRACT coverage for at least sixty outpatient visits in any CONTRACT YEAR, PLAN YEAR OR calendar year for the diagnosis and treatment of chemical dependence of which up to twenty may be for family members, except that this provision shall not apply to a contract issued pursuant to section four thousand three hundred five of this article which covers persons employed in more than one state or the benefit structure of which was the subject of collective bargaining affecting persons who are employed in more than one state. Such coverage may be limited to facilities in New York state certified by the office of alcoholism and substance abuse services or licensed by such office as outpatient clinics or medically supervised ambulatory substance abuse programs and, in other states, to those which are accredited by the joint commission on accreditation of hospitals as alcoholism or chemical dependence substance abuse treatment programs. SUCH COVERAGE MAY BE PROVIDED ON A CONTRACT YEAR, PLAN YEAR OR CALENDAR YEAR BASIS AND SHALL BE CONSISTENT WITH THE PROVISION OF OTHER BENEFITS UNDER THE CONTRACT. Such coverage may be subject to annual deductibles, CO-PAYS and co-insurance as may be deemed appropriate by the superintendent and are consistent with those imposed on other benefits [within a given policy] UNDER THE CONTRACT. Such coverage shall not replace, restrict or eliminate existing coverage provided by the policy. Except as otherwise provided in the applicable policy or contract, no hospital service corporation or health service corporation providing coverage for alcoholism or substance abuse services pursuant to this section shall deny coverage to a family member who identifies [themself] HIMSELF OR HERSELF as a family member of a person suffering from the disease of alcoholism, substance abuse or chemical dependency

and who seeks treatment as a family member who is otherwise covered by the applicable policy or contract pursuant to this section. The coverage required by this subsection shall include treatment as a family member pursuant to such family members' own policy or contract provided such family member (i) does not exceed the allowable number of family visits provided by the applicable policy or contract pursuant to this section, and (ii) is otherwise entitled to coverage pursuant to this section and such family members' applicable policy or contract.

S 5. The superintendent of insurance shall monitor the implementation of the coverage required pursuant to paragraphs 6 and 7 of subsection (l) of section 3221, and subsections (k) and (l) of section 4303 of the insurance law, and take such action as may be necessary, to ensure that insurers' contracts or policies do not contain unreasonable definitions of chemical abuse, alcohol and substance abuse, chemical dependence, alcoholism and substance dependence in their contracts or policies. In determining whether such definitions may be unreasonable, the superintendent of insurance shall ensure that any exclusions and limitations on covered benefits are consistent with benefits provided to public officers and employees pursuant to article 11 of the civil service law.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; and the provisions of this act shall apply to policies and contracts issued, renewed, modified, altered or amended on or after such effective date.