

STATE OF NEW YORK

8426

2025-2026 Regular Sessions

IN SENATE

June 10, 2025

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

AN ACT to amend the insurance law, in relation to requiring health insurance policies conform to the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 3221 of the insurance law is amended by adding a
2 new subsection (v) to read as follows:

3 (v) (1) Every insurer issuing a policy delivered or issued for deliv-
4 ery in this state that provides coverage for any mental health or
5 substance use disorder services shall:

6 (A) comply with the requirements of the federal Paul Wellstone and
7 Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 and
8 its implementing regulations; and

9 (B) not discriminate in its plan benefit design or application against
10 individuals because of their history of, present, or predicted mental
11 health or substance use disorder.

12 (2) The provisions published at 89 Federal Register 77586 et seq. on
13 September twenty-third, two thousand twenty-three, are incorporated into
14 this subsection in their entirety and shall apply as state law. Such
15 incorporation shall remain in effect notwithstanding any subsequent
16 amendment, repeal, or nonenforcement of the referenced federal
17 provisions.

18 (3) Data collected pursuant to section three hundred forty-three of
19 this chapter, and any other data requested by the superintendent, may be
20 used to assess compliance with the requirements of this subsection.

21 (4) If an insurer provides any benefits for a mental health or
22 substance use disorder in any classification of benefits, it shall
23 provide meaningful benefits for that mental health or substance use

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

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1 disorder in every classification in which medical or surgical benefits
2 are provided. "Core treatments" means standard treatments or courses of
3 treatment, therapy, service, or intervention indicated by generally
4 accepted standards of mental health or substance use disorder care. For
5 purposes of this subsection, whether the benefits provided are consid-
6 ered "meaningful benefits" is determined in comparison to the benefits
7 provided for medical conditions and surgical procedures in the classi-
8 fication and requires, at a minimum, coverage of benefits for that
9 condition or disorder in each classification in which the insurer
10 provides benefits for one or more medical conditions or surgical proce-
11 dures. An insurer shall not be deemed to provide meaningful benefits
12 under this subsection unless it provides benefits for core treatments
13 for that condition or disorder in each classification in which the
14 insurer provides benefits for core treatments for one or more medical
15 conditions or surgical procedures. If there is no core treatment for a
16 covered mental health or substance use disorder with respect to a clas-
17 sification, the insurer is not required to provide benefits for core
18 treatments for such condition or disorder in that classification, but
19 shall provide benefits for such condition or disorder in every classi-
20 fication in which medical or surgical benefits are provided.

21 (5) For the purposes of determining comparability and stringency for
22 nonquantitative treatment limitations, an insurer shall not rely upon
23 discriminatory factors or evidentiary standards to design a nonquantita-
24 tive treatment limitation to be imposed on mental health or substance
25 use disorder benefits. A factor or evidentiary standard is discriminato-
26 ry if the information, evidence, sources, or standards on which the
27 factor or evidentiary standard are based are biased or not objective in
28 a manner that discriminates against mental health or substance use
29 disorder benefits as compared to medical/surgical benefits.

30 (6) A nonquantitative treatment limitation applicable to mental health
31 or substance use disorder benefits in a classification shall not, in
32 operation, be more restrictive than the predominant nonquantitative
33 treatment limitation applied to substantially all medical/surgical bene-
34 fits in the classification. To test compliance with this paragraph, an
35 insurer shall collect and evaluate relevant data in a manner reasonably
36 designed to assess the impact of the nonquantitative treatment limita-
37 tion on relevant outcomes related to access to mental health or
38 substance use disorder benefits and medical/surgical benefits and care-
39 fully consider the impact as part of the plan's evaluation. As part of
40 its evaluation, the insurer may not disregard relevant outcomes data
41 that it knows or reasonably should know suggest that a nonquantitative
42 treatment limitation is associated with material differences in access
43 to mental health or substance use disorder benefits as compared to
44 medical/surgical benefits. To the extent the relevant data evaluated
45 suggest that the nonquantitative treatment limitation contributes to
46 material differences in access to mental health or substance use disor-
47 der benefits as compared to medical/surgical benefits in a classifica-
48 tion, such differences will be considered a strong indicator of a
49 noncompliant nonquantitative treatment limitation. Where the relevant
50 data suggest that the nonquantitative treatment limitation per examiner
51 contributes per examined to material differences in access to mental
52 health or substance use disorder benefits as compared to
53 medical/surgical benefits in a classification, the insurer shall take
54 reasonable action, as necessary, to address the material differences to
55 ensure compliance, in operation, and shall document the actions that
56 have been or are being taken by the insurer to address material differ-

ences in access to mental health or substance use disorder benefits, as compared to medical/surgical benefits.

(7) An insurer providing coverage for mental health or substance use disorder benefits shall submit an annual report beginning January first, two thousand twenty-six and annually thereafter, that contains the information described in 29 U.S.C. § 1185a(a)(8)(A) or 42 U.S.C. § 300gg-26(a)(8)(A), as applicable, and any other information determined necessary to assess compliance with this subsection. Such report shall be posted on a publicly available website whose web address is prominently displayed in plan informational and marketing materials.

(8) If a health care provider or a current or prospective enrollee or an employer requests, one or more nonquantitative treatment limitation parity compliance analyses that the insurer is required to have completed by this subsection, the insurer shall provide the requested analyses free of charge within thirty days. The insurer shall include in each of their health plan policies and mental health and substance use disorder provider contracts a notification of the right to request nonquantitative treatment limitation analyses free of charge. The notification shall include information on how to request the analyses. In addition to any other action authorized under this chapter, failure by an insurer to provide the full requested analyses shall result in a penalty of one hundred ten dollars per day. If the request under this paragraph is made in connection with an adverse benefit determination and the insurer fails to provide the requested analyses as required by this subsection, the adverse benefit determination is automatically reversed.

(9) The superintendent may adopt rules or guidance as necessary to implement and administer this subsection, and such rules or guidance shall have the force of law, including:

(A) specifying data testing requirements to determine plan design and application parity and nondiscrimination compliance using outcomes data;

(B) setting standard definitions; and

(C) establishing specific timelines for insurer compliance with the requirements of this subsection, including the effect of an insurer's lack of sufficient comparative analyses or other required information necessary to demonstrate compliance.

§ 2. Section 4303 of the insurance law is amended by adding a new subsection (ww) to read as follows:

(ww) (1) Every corporation issuing a contract delivered or issued for delivery in this state that provides coverage for any mental health or substance use disorder services shall:

(A) comply with the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 and its implementing regulations; and

(B) not discriminate in its contract benefit design or application against individuals because of their history of, present, or predicted mental health or substance use disorder.

(2) The provisions published at 89 Federal Register 77586 et seq. on September twenty-third two thousand twenty-three, are incorporated into this section in their entirety and shall apply as state law. Such incorporation shall remain in effect notwithstanding any subsequent amendment, repeal, or nonenforcement of the referenced federal provisions.

(3) Data collected pursuant to section three hundred forty-three of this chapter, and any other data requested by the superintendent, may be used to assess compliance with the requirements of this subsection.

1 (4) If a corporation provides any benefits for a mental health or
2 substance use disorder in any classification of benefits, it shall
3 provide meaningful benefits for that mental health or substance use
4 disorder in every classification in which medical or surgical benefits
5 are provided. "Core treatments" means standard treatments or courses of
6 treatment, therapy, service, or intervention indicated by generally
7 accepted standards of mental health or substance use disorder care. For
8 purposes of this subsection, whether the benefits provided are consid-
9 ered "meaningful benefits" is determined in comparison to the benefits
10 provided for medical conditions and surgical procedures in the classi-
11 fication and requires, at a minimum, coverage of benefits for that
12 condition or disorder in each classification in which the corporation
13 provides benefits for one or more medical conditions or surgical proce-
14 dures. A corporation shall not be deemed to provide meaningful benefits
15 under this subsection unless it provides benefits for core treatments
16 for that condition or disorder in each classification in which the
17 corporation provides benefits for core treatments for one or more
18 medical conditions or surgical procedures. If there is no core treatment
19 for a covered mental health or substance use disorder with respect to a
20 classification, the corporation is not required to provide benefits for
21 core treatments for such condition or disorder in that classification,
22 but shall provide benefits for such condition or disorder in every clas-
23 sification in which medical or surgical benefits are provided.

24 (5) For the purposes of determining comparability and stringency for
25 nonquantitative treatment limitations, a corporation shall not rely upon
26 discriminatory factors or evidentiary standards to design a nonquantita-
27 tive treatment limitation to be imposed on mental health or substance
28 use disorder benefits. A factor or evidentiary standard is discriminato-
29 ry if the information, evidence, sources, or standards on which the
30 factor or evidentiary standard are based are biased or not objective in
31 a manner that discriminates against mental health or substance use
32 disorder benefits as compared to medical or surgical benefits.

33 (6) A nonquantitative treatment limitation applicable to mental health
34 or substance use disorder benefits in a classification shall not, in
35 operation, be more restrictive than the predominant nonquantitative
36 treatment limitation applied to substantially all medical or surgical
37 benefits in the classification. To test compliance with this paragraph,
38 a corporation shall collect and evaluate relevant data in a manner
39 reasonably designed to assess the impact of the nonquantitative treat-
40 ment limitation on relevant outcomes related to access to mental health
41 or substance use disorder benefits and medical or surgical benefits, and
42 carefully consider the impact as part of the contract's evaluation. As
43 part of its evaluation, the corporation may not disregard relevant
44 outcomes data that it knows or reasonably should know suggest that a
45 nonquantitative treatment limitation is associated with material differ-
46 ences in access to mental health or substance use disorder benefits as
47 compared to medical or surgical benefits. To the extent the relevant
48 data evaluated suggest that the nonquantitative treatment limitation
49 contributes to material differences in access to mental health or
50 substance use disorder benefits as compared to medical or surgical bene-
51 fits in a classification, such differences shall be considered a strong
52 indicator of a noncompliant nonquantitative treatment limitation. Where
53 the relevant data suggest that the nonquantitative treatment limitation
54 contributes to material differences in access to mental health or
55 substance use disorder benefits, the corporation shall take reasonable

1 action, as necessary, to address such differences to ensure operational
2 compliance, and shall document the actions taken to do so.

3 (7) A corporation providing coverage for mental health or substance
4 use disorder benefits shall submit an annual report beginning January
5 first, two thousand twenty-six and annually thereafter that contains the
6 information described in 29 U.S.C. § 1185a(a)(8)(A) or 42 U.S.C. §
7 300gg-26(a)(8)(A), as applicable, and any other information determined
8 necessary to assess compliance with this subsection. Such report shall
9 be posted on a publicly available website whose web address is promi-
10 nently displayed in contract informational and marketing materials.

11 (8) If a health care provider or a current or prospective enrollee or
12 an employer requests one or more nonquantitative treatment limitation
13 parity compliance analyses that the corporation is required to have
14 completed by this subsection, the corporation shall provide the
15 requested analyses free of charge within thirty days. The corporation
16 shall include in each of its health care contracts and provider agree-
17 ments for mental health and substance use disorder services a notifica-
18 tion of the right to request such analyses free of charge. Such notifi-
19 cation shall include information on how to request the analyses. In
20 addition to any other action authorized under this chapter, failure by a
21 corporation to provide the full requested analyses shall result in a
22 penalty of one hundred ten dollars per day. If the request under this
23 paragraph is made in connection with an adverse benefit determination
24 and the corporation fails to provide the requested analyses as required
25 by this subsection, the adverse benefit determination shall be automat-
26 ically reversed.

27 (9) The superintendent may adopt rules or guidance as necessary to
28 implement and administer this subsection, and such rules or guidance
29 shall have the force of law, including:

30 (A) specifying data testing requirements to determine plan design and
31 application parity and nondiscrimination compliance using outcomes data;

32 (B) setting standard definitions; and

33 (C) establishing specific timelines for corporation compliance with
34 the requirements of this subsection, including the effect of a corpo-
35 ration's lack of sufficient comparative analyses or other required
36 information necessary to demonstrate compliance.

37 § 3. Section 3216 of the insurance law is amended by adding a new
38 subsection (n) to read as follows:

39 (n) (1) Every insurer issuing a policy delivered or issued for deliv-
40 ery in this state that provides coverage for any mental health or
41 substance use disorder services shall:

42 (A) comply with all applicable requirements of state and federal law
43 regarding coverage of such services; and

44 (B) not discriminate in its policy benefit design or administration
45 against individuals because of their history of, present, or predicted
46 mental health or substance use disorder.

47 (2) The provisions published at 89 Federal Register 77586 et seq. on
48 September twenty-third, two thousand twenty-three, are incorporated into
49 this section in their entirety and shall apply as state law. Such incor-
50 poration shall remain in effect notwithstanding any subsequent amend-
51 ment, repeal, or nonenforcement of the referenced federal provisions.

52 (3) Data collected pursuant to section three hundred forty-three of
53 this chapter, and any other data requested by the superintendent, may be
54 used to assess compliance with the requirements of this subsection.

55 (4) If an insurer provides any benefits for a mental health or
56 substance use disorder in any classification of benefits, it shall

1 provide meaningful benefits for that mental health or substance use
2 disorder in every classification in which medical or surgical benefits
3 are provided. "Core treatments" means standard treatments or courses of
4 treatment, therapy, service, or intervention indicated by generally
5 accepted standards of mental health or substance use disorder care. For
6 purposes of this subsection, whether the benefits provided are consid-
7 ered "meaningful benefits" is determined in comparison to the benefits
8 provided for medical conditions and surgical procedures in the classi-
9 fication and requires, at a minimum, coverage of benefits for that
10 condition or disorder in each classification in which the insurer
11 provides benefits for one or more medical conditions or surgical proce-
12 dures. An insurer shall not be deemed to provide meaningful benefits
13 under this subsection unless it provides benefits for core treatments
14 for that condition or disorder in each classification in which the
15 insurer provides benefits for core treatments for one or more medical
16 conditions or surgical procedures. If there is no core treatment for a
17 covered mental health or substance use disorder with respect to a clas-
18 sification, the insurer is not required to provide benefits for core
19 treatments for such condition or disorder in that classification, but
20 shall provide benefits for such condition or disorder in every classi-
21 fication in which medical or surgical benefits are provided.

22 (5) For the purposes of determining comparability and stringency for
23 nonquantitative treatment limitations, an insurer shall not rely upon
24 discriminatory factors or evidentiary standards to design a nonquantita-
25 tive treatment limitation to be imposed on mental health or substance
26 use disorder benefits. A factor or evidentiary standard is discriminato-
27 ry if the information, evidence, sources, or standards on which the
28 factor or evidentiary standard are based are biased or not objective in
29 a manner that discriminates against mental health or substance use
30 disorder benefits as compared to medical or surgical benefits.

31 (6) A nonquantitative treatment limitation applicable to mental health
32 or substance use disorder benefits in a classification shall not, in
33 operation, be more restrictive than the predominant nonquantitative
34 treatment limitation applied to substantially all medical or surgical
35 benefits in the classification. To test compliance with this paragraph,
36 an insurer shall collect and evaluate relevant data in a manner reason-
37 ably designed to assess the impact of the nonquantitative treatment
38 limitation on relevant outcomes related to access to mental health or
39 substance use disorder benefits and medical or surgical benefits, and
40 carefully consider the impact as part of the policy's evaluation. As
41 part of its evaluation, the insurer may not disregard relevant outcomes
42 data that it knows or reasonably should know suggest that a nonquantita-
43 tive treatment limitation is associated with material differences in
44 access to mental health or substance use disorder benefits as compared
45 to medical or surgical benefits. To the extent the relevant data evalu-
46 ated suggest that the nonquantitative treatment limitation contributes
47 per examiner to material differences in access to mental health or
48 substance use disorder benefits as compared to medical or surgical bene-
49 fits in a classification, such differences shall be considered a strong
50 indicator of a noncompliant nonquantitative treatment limitation. Where
51 the relevant data suggest that the nonquantitative treatment limitation
52 contributes to material differences in access to mental health or
53 substance use disorder benefits, the insurer shall take reasonable
54 action, as necessary, to address such differences to ensure operational
55 compliance, and shall document the actions taken to do so.

1 (7) An insurer providing coverage for mental health or substance use
2 disorder benefits shall submit an annual report beginning January first,
3 two thousand twenty-six and annually thereafter that contains the infor-
4 mation described in 29 U.S.C. § 1185a(a)(8)(A) or 42 U.S.C. §
5 300gg-26(a)(8)(A), as applicable, and any other information determined
6 necessary to assess compliance with this subsection. The report shall be
7 posted on a publicly available website whose web address is prominently
8 displayed in policy informational and marketing materials.

9 (8) If a health care provider or a current or prospective insured or
10 an employer requests one or more nonquantitative treatment limitation
11 parity compliance analyses that the insurer is required to have
12 completed by this subsection, the insurer shall provide the requested
13 analyses free of charge within thirty days. The insurer shall include in
14 each of its health insurance policies and provider agreements for mental
15 health and substance use disorder services a notification of the right
16 to request such analyses free of charge. Such notification shall include
17 information on how to request the analyses. In addition to any other
18 action authorized under this chapter, failure by an insurer to provide
19 the full requested analyses shall result in a penalty of one hundred ten
20 dollars per day. If the request under this paragraph is made in
21 connection with an adverse benefit determination and the insurer fails
22 to provide the requested analyses as required by this subsection, the
23 adverse benefit determination shall be automatically reversed.

24 (9) The superintendent may adopt rules or guidance as necessary to
25 implement and administer this subsection, and such rules or guidance
26 shall have the force of law, including:

27 (A) specifying data testing requirements to determine policy design
28 and application parity and nondiscrimination compliance using outcomes
29 data;

30 (B) setting standard definitions; and

31 (C) establishing specific timelines for insurer compliance with the
32 requirements of this section, including the effect of an insurer's lack
33 of sufficient comparative analyses or other required information neces-
34 sary to demonstrate compliance.

35 § 4. This act shall take effect on the one hundred twentieth day after
36 it shall have become a law and shall apply to all policies issued,
37 renewed, modified, altered or amended on or after such date. Effectively
38 immediately, the addition, amendment and/or repeal of any rule or regu-
39 lation necessary for the implementation of this act on its effective
40 date are authorized to be made and completed on or before such date.