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I N S E N A T E

May 23, 2014

Introduced by Sens. SEWARD, HANNON, MARTINS, RITCHIE, BOYLE, BALL, BONACIC, CARLUCCI, FELDER, GALLIVAN, GOLDEN, GRIFFO, LANZA, LARKIN, LAVALLE, LITTLE, MARCELLINO, MARCHIONE, MAZIARZ, NOZZOLIO, O'MARA, RANZENHOFER, ROBACH, SAVINO, VALESKY, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the public health law, in relation to requiring health insurance coverage for substance abuse disorder treatment services and creating a workgroup to study and make recommendations

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

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 30 to read as follows:
3 (30) (A) EVERY POLICY THAT PROVIDES MEDICAL, MAJOR-MEDICAL OR SIMILAR
4 COMPREHENSIVE-TYPE COVERAGE SHALL INCLUDE SPECIFIC COVERAGE FOR DRUG AND
5 ALCOHOL ABUSE AND DEPENDENCY TREATMENT SERVICES PURSUANT TO THE FEDERAL
6 PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION
7 EQUITY ACT OF 2008, AND APPLICABLE STATE STATUTES WHICH REQUIRES PARITY
8 BETWEEN MENTAL HEALTH OR SUBSTANCE USE DISORDER BENEFITS AND
9 MEDICAL/SURGICAL BENEFITS WITH RESPECT TO FINANCIAL REQUIREMENTS AND
10 TREATMENT.
11 (B) DETERMINATION OF COVERAGE FOR SUBSTANCE ABUSE OR DEPENDENCY TREAT-
12 MENT SERVICES BY A HEALTH PLAN SHALL BE MADE THROUGH A MEDICAL MANAGE-
13 MENT REVIEW PROCESS WHICH:
14 (I) UTILIZES A HEALTH CARE PROVIDER WHO SPECIALIZES IN BEHAVIORAL
15 HEALTH AND WHO HAS EXPERIENCE IN THE DELIVERY OF SUBSTANCE ABUSE COURSES
16 OF TREATMENT TO SUPERVISE AND OVERSEE THE MEDICAL MANAGEMENT DECISIONS
17 RELATING TO SUBSTANCE ABUSE TREATMENT; AND
18 (II) UTILIZES ONLY CLINICAL REVIEW CRITERIA CONTAINED IN THE MOST
19 RECENT EDITION OF THE AMERICAN SOCIETY OF ADDICTION MEDICINE'S PATIENT
20 PLACEMENT CRITERIA OR OTHER RECOGNIZED AND PEER REVIEWED CRITERIA OR

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

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COMPENDIA DEEMED APPROPRIATE AND APPROVED FOR SUCH USE BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT. ANY ADDITIONAL CRITERIA SHALL BE SUBJECT TO THE APPROVAL OF THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND SUPERINTENDENT.

(C) THE LOCATION OF COVERED TREATMENT PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE INSURER'S REQUIREMENTS RELATING TO THE USE OF PARTICIPATING PROVIDERS, INCLUDING THOSE PROVIDERS LOCATED OUTSIDE OF THE STATE.

(D) WHERE AN INSURED'S HEALTHCARE PROVIDER DETERMINES THAT A DELAY IN PROVIDING CARE OF TREATMENT RELATING TO A SUBSTANCE USE DISORDER WOULD POSE A SERIOUS THREAT TO THE HEALTH OR SAFETY OF THE INSURED, ALL INTERNAL AND EXTERNAL APPEALS OF UTILIZATION REVIEW DETERMINATIONS SHALL BE CONDUCTED ON AN EXPEDITED BASIS, AS SET FORTH IN SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOUR OF THIS CHAPTER AND IN PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOURTEEN OF THIS CHAPTER.

(E) IN THE EVENT OF AN ADVERSE DETERMINATION FOR SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES, THE HEALTH PLAN SHALL CONTINUE TO PROVIDE COVERAGE AND REIMBURSE FOR ALL SUCH SERVICES UNTIL THE INSURED HAS EXHAUSTED ALL APPEALS, BOTH INTERNAL AND EXTERNAL, OR OTHERWISE NOTIFIES THE HEALTH PLAN IN WRITING THAT HE OR SHE HAS DECIDED TO NOT MOVE FORWARD WITH THE APPEALS PROCESS.

(F) FOR PURPOSES OF THIS SECTION: "SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES" SHALL INCLUDE, BUT NOT LIMITED TO, HOSPITAL AND NON-HOSPITAL BASED DETOXIFICATION, INCLUDING MEDICALLY MANAGED, MEDICALLY SUPERVISED AND MEDICALLY MONITORED WITHDRAWAL, INPATIENT AND RESIDENTIAL REHABILITATION, INTENSIVE AND NON-INTENSIVE OUTPATIENT TREATMENT, AND OUTPATIENT OPIOID TREATMENT PROGRAMS.

S 2. Subsection (1) of section 3221 of the insurance law is amended by adding a new paragraph 19 to read as follows:

(19) (A) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL INCLUDE SPECIFIC COVERAGE FOR DRUG AND ALCOHOL ABUSE AND DEPENDENCY TREATMENT SERVICES PURSUANT TO THE FEDERAL PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008, AND APPLICABLE STATE STATUTES WHICH REQUIRES PARITY BETWEEN MENTAL HEALTH OR SUBSTANCE USE DISORDER BENEFITS AND MEDICAL/SURGICAL BENEFITS WITH RESPECT TO FINANCIAL REQUIREMENTS AND TREATMENT.

(B) DETERMINATION OF COVERAGE FOR SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES BY A HEALTH PLAN SHALL BE MADE THROUGH A MEDICAL MANAGEMENT REVIEW PROCESS WHICH:

(I) UTILIZES A HEALTH CARE PROVIDER WHO SPECIALIZES IN BEHAVIORAL HEALTH AND WHO HAS EXPERIENCE IN THE DELIVERY OF SUBSTANCE ABUSE COURSES OF TREATMENT TO SUPERVISE AND OVERSEE THE MEDICAL MANAGEMENT DECISIONS RELATING TO SUBSTANCE ABUSE TREATMENT; AND

(II) UTILIZES ONLY CLINICAL REVIEW CRITERIA CONTAINED IN THE MOST RECENT EDITION OF THE AMERICAN SOCIETY OF ADDICTION MEDICINE'S PATIENT PLACEMENT CRITERIA OR OTHER RECOGNIZED AND PEER REVIEWED CRITERIA OR COMPENDIA DEEMED APPROPRIATE AND APPROVED FOR SUCH USE BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT. ANY ADDITIONAL CRITERIA SHALL BE SUBJECT TO THE APPROVAL OF THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT.

(C) THE LOCATION OF COVERED TREATMENT PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE INSURER'S REQUIREMENTS RELATING TO THE USE OF PARTICIPATING PROVIDERS, INCLUDING THOSE PROVIDERS LOCATED OUTSIDE OF THE STATE.

(D) WHERE AN INSURED'S HEALTHCARE PROVIDER DETERMINES THAT A DELAY IN PROVIDING CARE TO TREATMENT RELATING TO A SUBSTANCE USE DISORDER WOULD POSE A SERIOUS THREAT TO THE HEALTH OR SAFETY OF THE INSURED, ALL INTERNAL AND EXTERNAL APPEALS OF UTILIZATION REVIEW DETERMINATIONS SHALL BE CONDUCTED ON AN EXPEDITED BASIS, AS SET FORTH IN SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOUR OF THIS CHAPTER AND IN PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOURTEEN OF THIS CHAPTER.

(E) IN THE EVENT OF AN ADVERSE DETERMINATION FOR SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES, THE HEALTH PLAN SHALL CONTINUE TO PROVIDE COVERAGE AND REIMBURSE FOR ALL SUCH SERVICES UNTIL THE INSURED HAS EXHAUSTED ALL APPEALS, BOTH INTERNAL AND EXTERNAL, OR OTHERWISE NOTIFIES THE HEALTH PLAN IN WRITING THAT HE OR SHE HAS DECIDED TO NOT MOVE FORWARD WITH THE APPEALS PROCESS.

(F) FOR PURPOSES OF THIS SECTION: "SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES" SHALL INCLUDE, BUT NOT BE LIMITED TO, HOSPITAL AND NON-HOSPITAL BASED DETOXIFICATION, INCLUDING MEDICALLY MANAGED, MEDICALLY SUPERVISED AND MEDICALLY MONITORED WITHDRAWAL, INPATIENT AND RESIDENTIAL REHABILITATION, INTENSIVE AND NON-INTENSIVE OUTPATIENT TREATMENT, AND OUTPATIENT OPIOID TREATMENT PROGRAMS.

S 3. Section 4303 of the insurance law is amended by adding a new subsection (oo) to read as follows:

(OO) (1) A MEDICAL EXPENSE INDEMNITY CORPORATION, A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICE CORPORATION WHICH PROVIDES MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL INCLUDE SPECIFIC COVERAGE FOR DRUG AND ALCOHOL ABUSE AND DEPENDENCY TREATMENT SERVICES PURSUANT TO THE FEDERAL PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008, AND APPLICABLE STATE STATUTES WHICH REQUIRES PARITY BETWEEN MENTAL HEALTH OR SUBSTANCE USE DISORDER BENEFITS AND MEDICAL/SURGICAL BENEFITS WITH RESPECT TO FINANCIAL REQUIREMENTS AND TREATMENT.

(2) DETERMINATION OF COVERAGE FOR SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES BY A HEALTH PLAN SHALL BE MADE THROUGH A MEDICAL MANAGEMENT REVIEW PROCESS WHICH:

(I) UTILIZES A HEALTH CARE PROVIDER WHO SPECIALIZES IN BEHAVIORAL HEALTH AND WHO HAS EXPERIENCE IN THE DELIVERY OF SUBSTANCE ABUSE COURSES OF TREATMENT TO SUPERVISE AND OVERSEE THE MEDICAL MANAGEMENT DECISIONS RELATING TO SUBSTANCE ABUSE TREATMENT; AND

(II) UTILIZES ONLY CLINICAL REVIEW CRITERIA CONTAINED IN THE MOST RECENT EDITION OF THE AMERICAN SOCIETY OF ADDICTION MEDICINE'S PATIENT PLACEMENT CRITERIA OR OTHER RECOGNIZED AND PEER REVIEWED CRITERIA OR COMPENDIA DEEMED APPROPRIATE AND APPROVED FOR SUCH USE BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT. ANY ADDITIONAL CRITERIA SHALL BE SUBJECT TO THE APPROVAL OF THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT.

(3) THE LOCATION OF COVERED TREATMENT PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE INSURER'S REQUIREMENTS RELATING TO THE USE OF PARTICIPATING PROVIDERS, INCLUDING THOSE PROVIDERS LOCATED OUTSIDE OF THE STATE.

(4) WHERE AN INSURED'S HEALTHCARE PROVIDER DETERMINES THAT A DELAY IN PROVIDING CARE OR TREATMENT RELATING TO A SUBSTANCE USE DISORDER WOULD POSE A SERIOUS THREAT TO THE HEALTH OR SAFETY OF THE INSURED, ALL INTERNAL AND EXTERNAL APPEALS OF THE UTILIZATION REVIEW DETERMINATIONS SHALL BE CONDUCTED ON AN EXPEDITED BASIS, AS SET FORTH IN SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOUR OF THIS CHAPTER AND IN PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOURTEEN OF THIS CHAPTER.

(5) IN THE EVENT OF AN ADVERSE DETERMINATION FOR SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES, THE HEALTH PLAN SHALL CONTINUE TO PROVIDE COVERAGE AND REIMBURSE FOR ALL SUCH SERVICES UNTIL THE INSURED HAS EXHAUSTED ALL APPEALS, BOTH INTERNAL AND EXTERNAL, OR OTHERWISE NOTIFIES THE HEALTH PLAN IN WRITING THAT HE OR SHE HAS DECIDED TO NOT MOVE FORWARD WITH THE APPEALS PROCESS.

(6) FOR PURPOSES OF THIS SECTION: "SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES" SHALL INCLUDE, BUT NOT BE LIMITED TO, HOSPITAL AND NON-HOSPITAL BASED DETOXIFICATION, INCLUDING MEDICALLY MANAGED, MEDICALLY SUPERVISED AND MEDICALLY MONITORED WITHDRAWAL, INPATIENT AND RESIDENTIAL REHABILITATION, INTENSIVE AND NON-INTENSIVE OUTPATIENT TREATMENT, AND OUTPATIENT OPIOID TREATMENT PROGRAMS.

S 4. Section 4902 of the insurance law is amended by adding two new subsections (c) and (d) to read as follows:

(C) WHEN CONDUCTING MEDICAL MANAGEMENT OR UTILIZATION REVIEW FOR PURPOSES OF DETERMINING HEALTH CARE COVERAGE FOR SUBSTANCE USE DISORDERS, A UTILIZATION REVIEW AGENT SHALL USE A HEALTH CARE PROVIDER WHO SPECIALIZES IN BEHAVIORAL HEALTH AND WHO HAS EXPERIENCE IN THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF TREATMENT TO SUPERVISE AND OVERSEE THE MEDICAL MANAGEMENT DECISIONS RELATING TO SUBSTANCE ABUSE TREATMENT. IN ADDITION, A UTILIZATION REVIEW AGENT SHALL UTILIZE ONLY CLINICAL REVIEW CRITERIA CONTAINED IN THE MOST RECENT EDITION OF THE AMERICAN SOCIETY OF ADDICTION MEDICINE'S PATIENT PLACEMENT CRITERIA OR OTHER RECOGNIZED AND PEER REVIEWED CRITERIA OR COMPENDIA WHICH ARE DEEMED APPROPRIATE AND APPROVED FOR SUCH USE BY THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT. ANY ADDITIONAL CRITERIA SHALL BE SUBJECT TO THE APPROVAL OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT.

(D) WHERE AN INSURED'S HEALTH CARE PROVIDER DETERMINES THAT A DELAY IN PROVIDING SUBSTANCE USE DISORDER TREATMENT WOULD POSE A SERIOUS THREAT TO THE HEALTH OR SAFETY OF THE INSURED, INTERNAL AND EXTERNAL APPEALS OF UTILIZATION REVIEW DETERMINATION WILL BE CONDUCTED ON AN EXPEDITED BASIS, AS SET FORTH IN SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOUR OF THIS ARTICLE AND IN PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOURTEEN OF THIS ARTICLE.

S 5. Subsection (c) of section 4903 of the insurance law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

(c) A utilization review agent shall make a determination involving continued or extended health care services, additional services for an insured undergoing a course of continued treatment prescribed by a health care provider, or home health care services following an inpatient hospital admission, and shall provide notice of such determination to the insured or the insured's designee, which may be satisfied by notice to the insured's health care provider, by telephone and in writing within one business day of receipt of the necessary information except, with respect to home health care services following an inpatient

1 hospital admission OR REQUESTS FOR TREATMENT FOR SUBSTANCE USE DISORDER,
2 within seventy-two hours of receipt of the necessary information when
3 the day subsequent to the request falls on a weekend or holiday. Notifi-
4 cation of continued or extended services shall include the number of
5 extended services approved, the new total of approved services, the date
6 of onset of services and the next review date. Provided that a request
7 for home health care services and all necessary information is submitted
8 to the utilization review agent prior to discharge from an inpatient
9 hospital admission pursuant to this subsection, a utilization review
10 agent shall not deny, on the basis of medical necessity or lack of prior
11 authorization, coverage for home health care services while a determi-
12 nation by the utilization review agent is pending. PROVIDED THAT A
13 REQUEST FOR TREATMENT FOR SUBSTANCE USE DISORDER AND ALL NECESSARY
14 INFORMATION IS SUBMITTED TO THE UTILIZATION REVIEW PURSUANT TO THIS
15 SUBSECTION, A UTILIZATION REVIEW AGENT SHALL NOT DENY, ON THE BASIS OF
16 MEDICAL NECESSITY OR LACK OF PRIOR AUTHORIZATION, COVERAGE FOR SUBSTANCE
17 ABUSE OR DEPENDENCY TREATMENT WHILE A DETERMINATION BY THE UTILIZATION
18 REVIEW AGENT IS PENDING.

19 S 6. Subsection (b) of section 4904 of the insurance law, as amended
20 by chapter 237 of the laws of 2009, is amended to read as follows

21 (b) A utilization review agent shall establish an expedited appeal
22 process for appeal of an adverse determination involving (1) continued
23 or extended health care services, procedures or treatments or additional
24 services for an insured undergoing a course of continued treatment
25 prescribed by a health care provider or home health care services
26 following discharge from an inpatient hospital admission pursuant to
27 subsection (c) of section four thousand nine hundred three of this arti-
28 cle or (2) an adverse determination in which the health care provider
29 believes an immediate appeal is warranted except any retrospective
30 determination. Such process shall include mechanisms which facilitate
31 resolution of the appeal including but not limited to the sharing of
32 information from the insured's health care provider and the utilization
33 review agent by telephonic means or by facsimile. The utilization review
34 agent shall provide reasonable access to its clinical peer reviewer
35 within one business day of receiving notice of the taking of an expe-
36 dited appeal. Expedited appeals shall be determined within two business
37 days of receipt of necessary information to conduct such appeal. Expe-
38 dited appeals which do not result in a resolution satisfactory to the
39 appealing party may be further appealed through the standard appeal
40 process, or through the external appeal process pursuant to section four
41 thousand nine hundred fourteen of this article as applicable. PROVIDED
42 THAT THE INSURED OR THE INSURED'S HEALTH CARE PROVIDER NOTIFIES THE
43 UTILIZATION REVIEW AGENT OF ITS INTENT TO FILE AN EXTERNAL APPEAL IMME-
44 DIATELY UPON RECEIPT OF AN APPEAL DETERMINATION AND A REQUEST FOR AN
45 EXPEDITED EXTERNAL APPEAL FOR TREATMENT OF SUBSTANCE USE DISORDER AND
46 ALL NECESSARY INFORMATION IS SUBMITTED WITHIN TWENTY-FOUR HOURS OF
47 RECEIPT OF AN APPEAL DETERMINATION, A UTILIZATION REVIEW AGENT SHALL NOT
48 DENY, ON THE BASIS OF MEDICAL NECESSITY OR LACK OF PRIOR AUTHORIZATION,
49 COVERAGE FOR SUCH TREATMENT WHILE A DETERMINATION BY THE EXTERNAL REVIEW
50 AGENT IS PENDING.

51 S 7. Section 4902 of the public health law is amended by adding two
52 new subdivisions 3 and 4 to read as follows:

53 3. WHEN CONDUCTING MEDICAL MANAGEMENT OR UTILIZATION REVIEW FOR
54 PURPOSES OF DETERMINING HEALTH CARE COVERAGE FOR SUBSTANCE USE DISORDER,
55 A UTILIZATION REVIEW AGENT SHALL USE A HEALTH CARE PROVIDER WHO SPECIAL-
56 IZES IN BEHAVIORAL HEALTH AND WHO HAS EXPERIENCE IN THE DELIVERY OF

1 SUBSTANCE USE DISORDER COURSES OF TREATMENT TO SUPERVISE AND OVERSEE THE
2 MEDICAL MANAGEMENT DECISIONS RELATING TO SUBSTANCE ABUSE TREATMENT. IN
3 ADDITION, A UTILIZATION REVIEW AGENT SHALL UTILIZE ONLY CLINICAL REVIEW
4 CRITERIA CONTAINED IN THE MOST RECENT EDITION OF THE AMERICAN SOCIETY OF
5 ADDICTION MEDICINE'S PATIENT PLACEMENT CRITERIA OR OTHER RECOGNIZED AND
6 PEER REVIEWED CRITERIA OR COMPENDIA WHICH ARE DEEMED APPROPRIATE AND
7 APPROVED FOR SUCH USE BY THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM
8 AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSIONER AND
9 THE SUPERINTENDENT OF THE DEPARTMENT OF FINANCIAL SERVICES. ANY ADDI-
10 TIONAL CRITERIA SHALL BE SUBJECT TO THE APPROVAL OF THE OFFICE OF ALCO-
11 HOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION WITH THE COMMISSION-
12 ER AND THE SUPERINTENDENT OF THE DEPARTMENT OF FINANCIAL SERVICES.

13 4. WHERE AN ENROLLEE'S HEALTH CARE PROVIDER DETERMINES THAT A DELAY IN
14 PROVIDING SUBSTANCE USE DISORDER TREATMENT WOULD POSE A SERIOUS THREAT
15 TO THE HEALTH OR SAFETY OF THE ENROLLEE, INTERNAL AND EXTERNAL APPEALS
16 OF UTILIZATION REVIEW DETERMINATIONS WILL BE CONDUCTED ON AN EXPEDITED
17 BASIS, AS SET FORTH IN SUBDIVISION TWO OF SECTION FOUR THOUSAND NINE
18 HUNDRED FOUR OF THIS ARTICLE AND IN PARAGRAPH (C) OF SUBDIVISION TWO OF
19 SECTION FOUR THOUSAND NINE HUNDRED FOURTEEN OF THIS ARTICLE.

20 S 8. Subdivision 3 of section 4903 of the public health law, as
21 amended by chapter 237 of the laws of 2009, is amended to read as
22 follows:

23 3. A utilization review agent shall make a determination involving
24 continued or extended health care services, additional services for an
25 enrollee undergoing a course of continued treatment prescribed by a
26 health care provider, or home health care services following an inpa-
27 tient hospital admission, and shall provide notice of such determination
28 to the enrollee or the enrollee's designee, which may be satisfied by
29 notice to the enrollee's health care provider, by telephone and in writ-
30 ing within one business day of receipt of the necessary information
31 except, with respect to home health care services following an inpatient
32 hospital admission, OR REQUESTS FOR TREATMENT FOR SUBSTANCE USE DISOR-
33 DER, within seventy-two hours of receipt of the necessary information
34 when the day subsequent to the request falls on a weekend or holiday.
35 Notification of continued or extended services shall include the number
36 of extended services approved, the new total of approved services, the
37 date of onset of services and the next review date. Provided that a
38 request for home health care services and all necessary information is
39 submitted to the utilization review agent prior to discharge from an
40 inpatient hospital admission pursuant to this subdivision, a utilization
41 review agent shall not deny, on the basis of medical necessity or lack
42 of prior authorization, coverage for home health care services while a
43 determination by the utilization review agent is pending. PROVIDED THAT
44 A REQUEST FOR TREATMENT FOR SUBSTANCE USE DISORDER AND ALL NECESSARY
45 INFORMATION IS SUBMITTED TO THE UTILIZATION REVIEW AGENT PURSUANT TO
46 THIS SUBDIVISION, A UTILIZATION REVIEW AGENT SHALL NOT DENY, ON THE
47 BASIS OF MEDICAL NECESSITY OR LACK OF PRIOR AUTHORIZATION, COVERAGE FOR
48 SUBSTANCE ABUSE OR DEPENDENCY TREATMENT SERVICES WHILE A DETERMINATION
49 BY THE UTILIZATION REVIEW AGENT IS PENDING.

50 S 9. Subdivision 2 of section 4904 of the public health law, as
51 amended by chapter 237 of the laws of 2009, is amended to read as
52 follows:

53 2. A utilization review agent shall establish an expedited appeal
54 process for appeal of an adverse determination involving:

55 (a) continued or extended health care services, procedures or treat-
56 ments or additional services for an enrollee undergoing a course of

1 continued treatment prescribed by a health care provider home health
2 care services following discharge from an inpatient hospital admission
3 pursuant to subdivision three of section forty-nine hundred three of
4 this article; or

5 (b) an adverse determination in which the health care provider
6 believes an immediate appeal is warranted except any retrospective
7 determination. Such process shall include mechanisms which facilitate
8 resolution of the appeal including but not limited to the sharing of
9 information from the enrollee's health care provider and the utilization
10 review agent by telephonic means or by facsimile. The utilization review
11 agent shall provide reasonable access to its clinical peer reviewer
12 within one business day of receiving notice of the taking of an expe-
13 dited appeal. Expedited appeals shall be determined within two business
14 days of receipt of necessary information to conduct such appeal. Expe-
15 dited appeals which do not result in a resolution satisfactory to the
16 appealing party may be further appealed through the standard appeal
17 process, or through the external appeal process pursuant to section
18 forty-nine hundred fourteen of this article as applicable. PROVIDED
19 THAT THE INSURED OR THE INSURED'S HEALTH CARE PROVIDER NOTIFIES THE
20 UTILIZATION REVIEW AGENT OF ITS INTENT TO FILE AN EXTERNAL APPEAL IMME-
21 DIATELY UPON RECEIPT OF AN APPEAL DETERMINATION AND A REQUEST FOR AN
22 EXPEDITED EXTERNAL APPEAL FOR TREATMENT OF SUBSTANCE USE DISORDER AND
23 ALL NECESSARY INFORMATION IS SUBMITTED WITHIN TWENTY-FOUR HOURS OF
24 RECEIPT OF AN APPEAL DETERMINATION, A UTILIZATION REVIEW AGENT SHALL NOT
25 DENY, ON THE BASIS OF MEDICAL NECESSITY OR LACK OF PRIOR AUTHORIZATION,
26 COVERAGE FOR SUCH TREATMENT WHILE A DETERMINATION BY THE EXTERNAL REVIEW
27 AGENT IS PENDING.

28 S 10. The superintendent of the department of financial services shall
29 select a random sampling of substance abuse treatment coverage determi-
30 nations and provide an analysis of whether or not such determinations
31 are in compliance with the criteria established in this act and report
32 its finding to the governor, the temporary president of the senate, and
33 speaker of the assembly, the chairs of the senate and assembly insurance
34 committees, and the chairs of the senate and assembly health committees
35 no later than December 31, 2015.

36 S 11. 1. Within thirty days of the effective date of this act, the
37 commissioner of the office of alcoholism and substance abuse services,
38 superintendent of the department of financial services, and the commis-
39 sioner of health, shall jointly convene a workgroup to study and make
40 recommendations on improving access to and availability of substance
41 abuse and dependency treatment services in the state. The workgroup
42 shall be co-chaired by such commissioners and superintendent, and shall
43 also include, but not be limited to, representatives of health care
44 providers, insurers, additional professionals, individuals and families
45 who have been affected by addiction. The workgroup shall include, but
46 not be limited to, a review of the following:

47 a. Identifying barriers to obtaining necessary substance abuse treat-
48 ment services for across the state;

49 b. Recommendations for increasing access to and availability of
50 substance abuse treatment services in the state, including underserved
51 areas of the state;

52 c. Identifying best clinical practices for substance abuse treatment
53 services;

54 d. A review of current insurance coverage requirements and recommenda-
55 tions for improving insurance coverage for substance abuse and dependen-
56 cy treatment;

1 e. Recommendations for improving state agency communication and
2 collaboration relating to substance abuse treatment services in the
3 state;
4 f. Resources for affected individuals and families who are having
5 difficulties obtaining necessary substance abuse treatment services; and
6 g. Methods for developing quality standards to measure the performance
7 of substance abuse treatment facilities in the state.
8 2. The workgroup shall submit a report of its findings and recommenda-
9 tions to the governor, the temporary president of the senate, the speak-
10 er of the assembly, the chairs of the senate and assembly insurance
11 committees, and the chairs of the senate and assembly health committees
12 no later than December 31, 2015.
13 S 12. This act shall take effect immediately.