

S. 7912

A. 10164

S E N A T E - A S S E M B L Y

June 17, 2014

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IN SENATE -- Introduced by Sens. SEWARD, HANNON, MARTINS, RITCHIE -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Cusick) -- (at request of the Governor) -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to requiring health insurance coverage for substance use 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 two new paragraphs 30 and 31 to read as follows:  
3     (30)(A) EVERY POLICY THAT PROVIDES HOSPITAL, MAJOR MEDICAL OR SIMILAR  
4 COMPREHENSIVE COVERAGE MUST PROVIDE INPATIENT COVERAGE FOR THE DIAGNOSIS  
5 AND TREATMENT OF SUBSTANCE USE DISORDER, INCLUDING DETOXIFICATION AND  
6 REHABILITATION SERVICES. SUCH COVERAGE SHALL NOT APPLY FINANCIAL  
7 REQUIREMENTS OR TREATMENT LIMITATIONS TO INPATIENT SUBSTANCE USE DISOR-  
8 DER BENEFITS THAT ARE MORE RESTRICTIVE THAN THE PREDOMINANT FINANCIAL  
9 REQUIREMENTS AND TREATMENT LIMITATIONS APPLIED TO SUBSTANTIALLY ALL  
10 MEDICAL AND SURGICAL BENEFITS COVERED BY THE POLICY.     FURTHER, SUCH  
11 COVERAGE SHALL BE PROVIDED CONSISTENT WITH THE FEDERAL PAUL WELLSTONE  
12 AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008  
13 (29 U.S.C. S 1185A).  
14     (B) COVERAGE PROVIDED UNDER THIS PARAGRAPH MAY BE LIMITED TO FACILI-  
15 TIES IN NEW YORK STATE WHICH ARE CERTIFIED BY THE OFFICE OF ALCOHOLISM  
16 AND SUBSTANCE ABUSE SERVICES AND, IN OTHER STATES, TO THOSE WHICH ARE  
17 ACCREDITED BY THE JOINT COMMISSION AS ALCOHOLISM, SUBSTANCE ABUSE, OR  
18 CHEMICAL DEPENDENCE TREATMENT PROGRAMS.  
19     (C) COVERAGE PROVIDED UNDER THIS PARAGRAPH MAY BE SUBJECT TO ANNUAL  
20 DEDUCTIBLES AND CO-INSURANCE AS DEEMED APPROPRIATE BY THE SUPERINTENDENT

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

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1 AND THAT ARE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS WITHIN A  
2 GIVEN POLICY.

3 (31) (A) EVERY POLICY THAT PROVIDES MEDICAL, MAJOR MEDICAL OR SIMILAR  
4 COMPREHENSIVE-TYPE COVERAGE MUST PROVIDE OUTPATIENT COVERAGE FOR THE  
5 DIAGNOSIS AND TREATMENT OF SUBSTANCE USE DISORDER, INCLUDING DETOXIFICA-  
6 TION AND REHABILITATION SERVICES. SUCH COVERAGE SHALL NOT APPLY FINAN-  
7 CIAL REQUIREMENTS OR TREATMENT LIMITATIONS TO OUTPATIENT SUBSTANCE USE  
8 DISORDER BENEFITS THAT ARE MORE RESTRICTIVE THAN THE PREDOMINANT FINAN-  
9 CIAL REQUIREMENTS AND TREATMENT LIMITATIONS APPLIED TO SUBSTANTIALLY ALL  
10 MEDICAL AND SURGICAL BENEFITS COVERED BY THE POLICY. FURTHER, SUCH  
11 COVERAGE SHALL BE PROVIDED CONSISTENT WITH THE FEDERAL PAUL WELLSTONE  
12 AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008  
13 (29 U.S.C. S 1185A).

14 (B) COVERAGE UNDER THIS PARAGRAPH MAY BE LIMITED TO FACILITIES IN NEW  
15 YORK STATE CERTIFIED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE  
16 SERVICES OR LICENSED BY SUCH OFFICE AS OUTPATIENT CLINICS OR MEDICALLY  
17 SUPERVISED AMBULATORY SUBSTANCE ABUSE PROGRAMS AND, IN OTHER STATES, TO  
18 THOSE WHICH ARE ACCREDITED BY THE JOINT COMMISSION AS ALCOHOLISM OR  
19 CHEMICAL DEPENDENCE SUBSTANCE ABUSE TREATMENT PROGRAMS.

20 (C) COVERAGE PROVIDED UNDER THIS PARAGRAPH MAY BE SUBJECT TO ANNUAL  
21 DEDUCTIBLES AND CO-INSURANCE AS DEEMED APPROPRIATE BY THE SUPERINTENDENT  
22 AND THAT ARE CONSISTENT WITH THOSE IMPOSED ON OTHER BENEFITS WITHIN A  
23 GIVEN POLICY.

24 (D) A POLICY PROVIDING COVERAGE FOR SUBSTANCE USE DISORDER SERVICES  
25 PURSUANT TO THIS PARAGRAPH SHALL PROVIDE UP TO TWENTY OUTPATIENT VISITS  
26 PER POLICY OR CALENDAR YEAR TO AN INDIVIDUAL WHO IDENTIFIES HIM OR  
27 HERSELF AS A FAMILY MEMBER OF A PERSON SUFFERING FROM SUBSTANCE USE  
28 DISORDER AND WHO SEEKS TREATMENT AS A FAMILY MEMBER WHO IS OTHERWISE  
29 COVERED BY THE APPLICABLE POLICY PURSUANT TO THIS PARAGRAPH. THE COVER-  
30 AGE REQUIRED BY THIS PARAGRAPH SHALL INCLUDE TREATMENT AS A FAMILY  
31 MEMBER PURSUANT TO SUCH FAMILY MEMBER'S OWN POLICY PROVIDED SUCH FAMILY  
32 MEMBER:

33 (I) DOES NOT EXCEED THE ALLOWABLE NUMBER OF FAMILY VISITS PROVIDED BY  
34 THE APPLICABLE POLICY PURSUANT TO THIS PARAGRAPH; AND

35 (II) IS OTHERWISE ENTITLED TO COVERAGE PURSUANT TO THIS PARAGRAPH AND  
36 SUCH FAMILY MEMBER'S APPLICABLE POLICY.

37 S 2. Paragraphs 6 and 7 of subsection (1) of section 3221 of the  
38 insurance law, paragraph 6 as amended by chapter 558 of the laws of 1999  
39 and paragraph 7 as amended by chapter 565 of the laws of 2000, are  
40 amended to read as follows:

41 (6) (A) Every [insurer delivering a group or school blanket policy or  
42 issuing a group or school blanket policy for delivery, in this state,  
43 which] POLICY THAT provides [coverage for inpatient hospital care]  
44 HOSPITAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE COVERAGE must [make  
45 available and, if requested by the policyholder,] provide INPATIENT  
46 coverage for the diagnosis and treatment of [chemical abuse and chemical  
47 dependence, however defined in such policy, provided, however, that the  
48 term chemical abuse shall mean and include alcohol and substance abuse  
49 and chemical dependence shall mean and include alcoholism and substance  
50 dependence, however defined in such policy. Written notice of the avail-  
51 ability of such coverage shall be delivered to the policyholder prior to  
52 inception of such group policy and annually thereafter, except that this  
53 notice shall not be required where a policy covers two hundred or more  
54 employees or where the benefit structure was the subject of collective  
55 bargaining affecting persons who are employed in more than one state.

56 (B) Such coverage shall be at least equal to the following:

1 (i) with respect to benefits for detoxification as a consequence of  
2 chemical dependence, inpatient benefits in a hospital or a detoxifica-  
3 tion facility may not be limited to less than seven days of active  
4 treatment in any calendar year; and

5 (ii) with respect to benefits for rehabilitation services, such bene-  
6 fits may not be limited to less than thirty days of inpatient care in  
7 any calendar year.] SUBSTANCE USE DISORDER, INCLUDING DETOXIFICATION AND  
8 REHABILITATION SERVICES. SUCH COVERAGE SHALL NOT APPLY FINANCIAL  
9 REQUIREMENTS OR TREATMENT LIMITATIONS TO INPATIENT SUBSTANCE USE DISOR-  
10 DER BENEFITS THAT ARE MORE RESTRICTIVE THAN THE PREDOMINANT FINANCIAL  
11 REQUIREMENTS AND TREATMENT LIMITATIONS APPLIED TO SUBSTANTIALLY ALL  
12 MEDICAL AND SURGICAL BENEFITS COVERED BY THE POLICY. FURTHER, SUCH  
13 COVERAGE SHALL BE PROVIDED CONSISTENT WITH THE FEDERAL PAUL WELLSTONE  
14 AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008  
15 (29 U.S.C. S 1185A).

16 [(C) Such coverage] (B) COVERAGE PROVIDED UNDER THIS PARAGRAPH may be  
17 limited to facilities in New York state which are certified by the  
18 office of alcoholism and substance abuse services and, in other states,  
19 to those which are accredited by the joint commission [on accreditation  
20 of hospitals] as alcoholism, substance abuse or chemical dependence  
21 treatment programs.

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

25 (E) Such coverage] (C) COVERAGE PROVIDED UNDER THIS PARAGRAPH may be  
26 subject to annual deductibles and co-insurance as [may be] deemed appro-  
27 priate by the superintendent and THAT are consistent with those imposed  
28 on other benefits within a given policy. [Further, each insurer shall  
29 report to the superintendent each year the number of contract holders to  
30 whom it has issued policies for the inpatient treatment of chemical  
31 dependence, and the approximate number of persons covered by such poli-  
32 cies.

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

35 (7) (A) Every [insurer delivering a group or school blanket policy or  
36 issuing a group or school blanket policy for delivery in this state  
37 which] POLICY THAT provides [coverage for inpatient hospital care]  
38 MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE must  
39 provide OUTPATIENT coverage for [at least sixty outpatient visits in any  
40 calendar year for] the diagnosis and treatment of [chemical dependence  
41 of which up to twenty may be for family members, except that this  
42 provision shall not apply to a policy which covers persons employed in  
43 more than one state or the benefit structure of which was the subject of  
44 collective bargaining affecting persons who are employed in more than  
45 one state.] SUBSTANCE USE DISORDER, INCLUDING DETOXIFICATION AND REHA-  
46 BILITATION SERVICES. SUCH COVERAGE SHALL NOT APPLY FINANCIAL REQUIRE-  
47 MENTS OR TREATMENT LIMITATIONS TO OUTPATIENT SUBSTANCE USE DISORDER  
48 BENEFITS THAT ARE MORE RESTRICTIVE THAN THE PREDOMINANT FINANCIAL  
49 REQUIREMENTS AND TREATMENT LIMITATIONS APPLIED TO SUBSTANTIALLY ALL  
50 MEDICAL AND SURGICAL BENEFITS COVERED BY THE POLICY. FURTHER, SUCH  
51 COVERAGE SHALL BE PROVIDED CONSISTENT WITH THE FEDERAL PAUL WELLSTONE  
52 AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008  
53 (29 U.S.C. S 1185A).

54 [Such coverage] (B) COVERAGE UNDER THIS PARAGRAPH may be limited to  
55 facilities in New York state certified by the office of alcoholism and  
56 substance abuse services or licensed by such office as outpatient clin-

1 ics or medically supervised ambulatory substance abuse programs and, in  
2 other states, to those which are accredited by the joint commission [on  
3 accreditation of hospitals] as alcoholism or chemical dependence treat-  
4 ment programs.

5 [Such coverage] (C) COVERAGE PROVIDED UNDER THIS PARAGRAPH may be  
6 subject to annual deductibles and co-insurance as [may be] deemed appro-  
7 priate by the superintendent and THAT are consistent with those imposed  
8 on other benefits within a given policy. [Such coverage shall not  
9 replace, restrict, or eliminate existing coverage provided by the poli-  
10 cy. Except as otherwise provided in the applicable policy or contract,  
11 no insurer delivering a group or school blanket policy or issuing a  
12 group or school blanket policy providing coverage for alcoholism or  
13 substance abuse services pursuant to this section shall deny coverage to  
14 a family member]

15 (D) A POLICY PROVIDING COVERAGE FOR SUBSTANCE USE DISORDER SERVICES  
16 PURSUANT TO THIS PARAGRAPH SHALL PROVIDE UP TO TWENTY OUTPATIENT VISITS  
17 PER POLICY OR CALENDAR YEAR TO AN INDIVIDUAL who identifies [themselves]  
18 HIM OR HERSELF as a family member of a person suffering from [the  
19 disease of alcoholism, substance abuse or chemical dependency] SUBSTANCE  
20 USE DISORDER and who seeks treatment as a family member who is otherwise  
21 covered by the applicable policy [or contract] pursuant to this  
22 [section] PARAGRAPH. The coverage required by this paragraph shall  
23 include treatment as a family member pursuant to such family [members']  
24 MEMBER'S own policy [or contract] provided such family member:

25 (i) does not exceed the allowable number of family visits provided by  
26 the applicable policy [or contract] pursuant to this [section,] PARA-  
27 GRAPH; and

28 (ii) is otherwise entitled to coverage pursuant to this [section]  
29 PARAGRAPH and such family [members'] MEMBER'S applicable policy [or  
30 contract].

31 S 3. Subsections (k) and (l) of section 4303 of the insurance law,  
32 subsection (k) as amended by chapter 558 of the laws of 1999 and  
33 subsection (l) as amended by chapter 565 of the laws of 2000, are  
34 amended to read as follows:

35 (k) [A hospital service corporation or a health service corporation  
36 which] (1) EVERY CONTRACT THAT provides [group, group remittance or  
37 school blanket coverage for inpatient hospital care] HOSPITAL, MAJOR  
38 MEDICAL OR SIMILAR COMPREHENSIVE COVERAGE must [make available and if  
39 requested by the contract holder] provide INPATIENT coverage for the  
40 diagnosis and treatment of [chemical abuse and chemical dependence,  
41 however defined in such policy, provided, however, that the term chemi-  
42 cal abuse shall mean and include alcohol and substance abuse and chemi-  
43 cal dependence shall mean and include alcoholism and substance depend-  
44 ence, however defined in such policy, except that this provision shall  
45 not apply to a policy which covers persons employed in more than one  
46 state or the benefit structure of which was the subject of collective  
47 bargaining affecting persons who are employed in more than one state.  
48 Such coverage shall be at least equal to the following: (1) with respect  
49 to benefits for detoxification as a consequence of chemical dependence,  
50 inpatient benefits for care in a hospital or detoxification facility may  
51 not be limited to less than seven days of active treatment in any calen-  
52 dar year; and (2) with respect to benefits for inpatient rehabilitation  
53 services, such benefits may not be limited to less than thirty days of  
54 inpatient rehabilitation in a hospital based or free standing chemical  
55 dependence facility in any calendar year.] SUBSTANCE USE DISORDER,  
56 INCLUDING DETOXIFICATION AND REHABILITATION SERVICES. SUCH COVERAGE

1 SHALL NOT APPLY FINANCIAL REQUIREMENTS OR TREATMENT LIMITATIONS TO INPA-  
2 TIENT SUBSTANCE USE DISORDER BENEFITS THAT ARE MORE RESTRICTIVE THAN THE  
3 PREDOMINANT FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS APPLIED TO  
4 SUBSTANTIALLY ALL MEDICAL AND SURGICAL BENEFITS COVERED BY THE CONTRACT.  
5 FURTHER, SUCH COVERAGE SHALL BE PROVIDED CONSISTENT WITH THE FEDERAL  
6 PAUL WELLSTONE AND PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION  
7 EQUITY ACT OF 2008 (29 U.S.C. S 1185A).

8 [Such coverage] (2) COVERAGE PROVIDED UNDER THIS SUBSECTION may be  
9 limited to facilities in New York state which are certified by the  
10 office of alcoholism and substance abuse services and, in other states,  
11 to those which are accredited by the joint commission [on accreditation  
12 of hospitals] as alcoholism, substance abuse, or chemical dependence  
13 treatment programs. [Such coverage shall be made available at the incep-  
14 tion of all new policies and with respect to policies issued before the  
15 effective date of this subsection at the first annual anniversary date  
16 thereafter, without evidence of insurability and at any subsequent annu-  
17 al anniversary date subject to evidence of insurability.

18 Such coverage] (3) COVERAGE PROVIDED UNDER THIS SUBSECTION may be  
19 subject to annual deductibles and co-insurance as [may be] deemed appro-  
20 priate by the superintendent and THAT are consistent with those imposed  
21 on other benefits within a given [policy] CONTRACT. [Further, each  
22 hospital service corporation or health service corporation shall report  
23 to the superintendent each year the number of contract holders to whom  
24 it has issued policies for the inpatient treatment of chemical depend-  
25 ence, and the approximate number of persons covered by such policies.  
26 Such coverage shall not replace, restrict or eliminate existing coverage  
27 provided by the policy. Written notice of the availability of such  
28 coverage shall be delivered to the group remitting agent or group  
29 contract holder prior to inception of such contract and annually there-  
30 after, except that this notice shall not be required where a policy  
31 covers two hundred or more employees or where the benefit structure was  
32 the subject of collective bargaining affecting persons who are employed  
33 in more than one state.]

34 (1) [A hospital service corporation or a health service corporation  
35 which] (1) EVERY CONTRACT THAT provides [group, group remittance or  
36 school blanket coverage for inpatient hospital care] MEDICAL, MAJOR  
37 MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE must provide OUTPATIENT  
38 coverage for [at least sixty outpatient visits in any calendar year for]  
39 the diagnosis and treatment of [chemical dependence of which up to twen-  
40 ty may be for family members, except that this provision shall not apply  
41 to a contract issued pursuant to section four thousand three hundred  
42 five of this article which covers persons employed in more than one  
43 state or the benefit structure of which was the subject of collective  
44 bargaining affecting persons who are employed in more than one state.]  
45 SUBSTANCE USE DISORDER, INCLUDING DETOXIFICATION AND REHABILITATION  
46 SERVICES. SUCH COVERAGE SHALL NOT APPLY FINANCIAL REQUIREMENTS OR  
47 TREATMENT LIMITATIONS TO OUTPATIENT SUBSTANCE USE DISORDER BENEFITS THAT  
48 ARE MORE RESTRICTIVE THAN THE PREDOMINANT FINANCIAL REQUIREMENTS AND  
49 TREATMENT LIMITATIONS APPLIED TO SUBSTANTIALLY ALL MEDICAL AND SURGICAL  
50 BENEFITS COVERED BY THE CONTRACT. FURTHER, SUCH COVERAGE SHALL BE  
51 PROVIDED CONSISTENT WITH THE FEDERAL PAUL WELLSTONE AND PETE DOMENICI  
52 MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008 (29 U.S.C. S  
53 1185A).

54 [Such coverage] (2) COVERAGE UNDER THIS SUBSECTION may be limited to  
55 facilities in New York state certified by the office of alcoholism and  
56 substance abuse services or licensed by such office as outpatient clin-

1 ics or medically supervised ambulatory substance abuse programs and, in  
2 other states, to those which are accredited by the joint commission [on  
3 accreditation of hospitals] as alcoholism or chemical dependence  
4 substance abuse treatment programs.

5 [Such coverage] (3) COVERAGE PROVIDED UNDER THIS SUBSECTION may be  
6 subject to annual deductibles and co-insurance as [may be] deemed appro-  
7 priate by the superintendent and THAT are consistent with those imposed  
8 on other benefits within a given [policy] CONTRACT. [Such coverage  
9 shall not replace, restrict or eliminate existing coverage provided by  
10 the policy. Except as otherwise provided in the applicable policy or  
11 contract, no hospital service corporation or health service corporation  
12 providing coverage for alcoholism or substance abuse services pursuant  
13 to this section shall deny coverage to a family member]

14 (4) A CONTRACT PROVIDING COVERAGE FOR SUBSTANCE USE DISORDER SERVICES  
15 PURSUANT TO THIS SUBSECTION SHALL PROVIDE UP TO TWENTY OUTPATIENT VISITS  
16 PER CONTRACT OR CALENDAR YEAR TO AN INDIVIDUAL who identifies [themselves]  
17 HIM OR HERSELF as a family member of a person suffering from [the  
18 disease of alcoholism, substance abuse or chemical dependency] SUBSTANCE  
19 USE DISORDER and who seeks treatment as a family member who is otherwise  
20 covered by the applicable [policy or] contract pursuant to this  
21 [section] SUBSECTION. The coverage required by this subsection shall  
22 include treatment as a family member pursuant to such family [members']  
23 MEMBER'S own [policy or] contract provided such family member:

24 [(i)] (A) does not exceed the allowable number of family visits  
25 provided by the applicable [policy or] contract pursuant to this  
26 [section,] SUBSECTION; and

27 [(ii)] (B) is otherwise entitled to coverage pursuant to this  
28 [section] SUBSECTION and such family [members'] MEMBER'S applicable  
29 [policy or] contract.

30 S 3-a. Item (ii) of subparagraph (B) of paragraph 1 of subsection (b)  
31 of section 4900 of the insurance law, as amended by chapter 586 of the  
32 laws of 1998, is amended and a new subparagraph (C) is added to read as  
33 follows:

34 (ii) is in the same profession and same or similar specialty as the  
35 health care provider who typically manages the medical condition or  
36 disease or provides the health care service or treatment under review;  
37 [and] OR

38 (C) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE DISORDER  
39 TREATMENT:

40 (I) A PHYSICIAN WHO POSSESSES A CURRENT AND VALID NON-RESTRICTED  
41 LICENSE TO PRACTICE MEDICINE AND WHO SPECIALIZES IN BEHAVIORAL HEALTH  
42 AND HAS EXPERIENCE IN THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF  
43 TREATMENT; OR

44 (II) A HEALTH CARE PROFESSIONAL OTHER THAN A LICENSED PHYSICIAN WHO  
45 SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERIENCE IN THE DELIVERY OF  
46 SUBSTANCE USE DISORDER COURSES OF TREATMENT AND, WHERE APPLICABLE,  
47 POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE, CERTIFICATE OR  
48 REGISTRATION OR, WHERE NO PROVISION FOR A LICENSE, CERTIFICATE OR REGIS-  
49 TRATION EXISTS, IS CREDENTIALLED BY THE NATIONAL ACCREDITING BODY APPRO-  
50 PRIATE TO THE PROFESSION; AND

51 S 4. Subsection (a) of section 4902 of the insurance law is amended by  
52 adding a new paragraph 9 to read as follows:

53 (9) WHEN CONDUCTING UTILIZATION REVIEW FOR PURPOSES OF DETERMINING  
54 HEALTH CARE COVERAGE FOR SUBSTANCE USE DISORDER TREATMENT, A UTILIZATION  
55 REVIEW AGENT SHALL UTILIZE RECOGNIZED EVIDENCE-BASED AND PEER REVIEWED  
56 CLINICAL REVIEW CRITERIA THAT IS APPROPRIATE TO THE AGE OF THE PATIENT

1 AND IS DEEMED APPROPRIATE AND APPROVED FOR SUCH USE BY THE COMMISSIONER  
2 OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION  
3 WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT.

4 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION  
5 WITH THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT SHALL APPROVE A  
6 RECOGNIZED EVIDENCE-BASED AND PEER REVIEWED CLINICAL REVIEW CRITERIA, IN  
7 ADDITION TO ANY OTHER APPROVED EVIDENCE-BASED AND PEER REVIEWED CLINICAL  
8 REVIEW CRITERIA.

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

11 (c) (1) A utilization review agent shall make a determination involv-  
12 ing continued or extended health care services, additional services for  
13 an insured undergoing a course of continued treatment prescribed by a  
14 health care provider, OR REQUESTS FOR INPATIENT SUBSTANCE USE DISORDER  
15 TREATMENT, or home health care services following an inpatient hospital  
16 admission, and shall provide notice of such determination to the insured  
17 or the insured's designee, which may be satisfied by notice to the  
18 insured's health care provider, by telephone and in writing within one  
19 business day of receipt of the necessary information except, with  
20 respect to home health care services following an inpatient hospital  
21 admission, within seventy-two hours of receipt of the necessary informa-  
22 tion when the day subsequent to the request falls on a weekend or holi-  
23 day AND EXCEPT, WITH RESPECT TO INPATIENT SUBSTANCE USE DISORDER TREAT-  
24 MENT, WITHIN TWENTY-FOUR HOURS OF RECEIPT OF THE REQUEST FOR SERVICES  
25 WHEN THE REQUEST IS SUBMITTED AT LEAST TWENTY-FOUR HOURS PRIOR TO  
26 DISCHARGE FROM AN INPATIENT ADMISSION. Notification of continued or  
27 extended services shall include the number of extended services  
28 approved, the new total of approved services, the date of onset of  
29 services and the next review date.

30 (2) Provided that a request for home health care services and all  
31 necessary information is submitted to the utilization review agent prior  
32 to discharge from an inpatient hospital admission pursuant to this  
33 subsection, a utilization review agent shall not deny, on the basis of  
34 medical necessity or lack of prior authorization, coverage for home  
35 health care services while a determination by the utilization review  
36 agent is pending.

37 (3) PROVIDED THAT A REQUEST FOR INPATIENT TREATMENT FOR SUBSTANCE USE  
38 DISORDER IS SUBMITTED TO THE UTILIZATION REVIEW AGENT AT LEAST  
39 TWENTY-FOUR HOURS PRIOR TO DISCHARGE FROM AN INPATIENT ADMISSION PURSU-  
40 ANT TO THIS SUBSECTION, A UTILIZATION REVIEW AGENT SHALL NOT DENY, ON  
41 THE BASIS OF MEDICAL NECESSITY OR LACK OF PRIOR AUTHORIZATION, COVERAGE  
42 FOR THE INPATIENT SUBSTANCE USE DISORDER TREATMENT WHILE A DETERMINATION  
43 BY THE UTILIZATION REVIEW AGENT IS PENDING.

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

46 (b) A utilization review agent shall establish an expedited appeal  
47 process for appeal of an adverse determination involving (1) continued  
48 or extended health care services, procedures or treatments or additional  
49 services for an insured undergoing a course of continued treatment  
50 prescribed by a health care provider or home health care services  
51 following discharge from an inpatient hospital admission pursuant to  
52 subsection (c) of section four thousand nine hundred three of this arti-  
53 cle or (2) an adverse determination in which the health care provider  
54 believes an immediate appeal is warranted except any retrospective  
55 determination. Such process shall include mechanisms which facilitate  
56 resolution of the appeal including but not limited to the sharing of

1 information from the insured's health care provider and the utilization  
2 review agent by telephonic means or by facsimile. The utilization review  
3 agent shall provide reasonable access to its clinical peer reviewer  
4 within one business day of receiving notice of the taking of an expedited appeal. Expedited appeals shall be determined within two business  
5 days of receipt of necessary information to conduct such appeal EXCEPT,  
6 WITH RESPECT TO INPATIENT SUBSTANCE USE DISORDER TREATMENT PROVIDED  
7 PURSUANT TO PARAGRAPH THREE OF SUBSECTION (C) OF SECTION FOUR THOUSAND  
8 NINE HUNDRED THREE OF THIS ARTICLE, EXPEDITED APPEALS SHALL BE DETER-  
9 MINED WITHIN TWENTY-FOUR HOURS OF RECEIPT OF SUCH APPEAL. Expedited  
10 appeals which do not result in a resolution satisfactory to the appeal-  
11 ing party may be further appealed through the standard appeal process,  
12 or through the external appeal process pursuant to section four thousand  
13 nine hundred fourteen of this article as applicable. PROVIDED THAT THE  
14 INSURED OR THE INSURED'S HEALTH CARE PROVIDER FILES AN EXPEDITED INTER-  
15 NAL AND EXTERNAL APPEAL WITHIN TWENTY-FOUR HOURS FROM RECEIPT OF AN  
16 ADVERSE DETERMINATION FOR INPATIENT SUBSTANCE USE DISORDER TREATMENT FOR  
17 WHICH COVERAGE WAS PROVIDED WHILE THE INITIAL UTILIZATION REVIEW DETER-  
18 MINATION WAS PENDING PURSUANT TO PARAGRAPH THREE OF SUBSECTION (C) OF  
19 SECTION FOUR THOUSAND NINE HUNDRED THREE OF THIS ARTICLE, A UTILIZATION  
20 REVIEW AGENT SHALL NOT DENY ON THE BASIS OF MEDICAL NECESSITY OR LACK OF  
21 PRIOR AUTHORIZATION SUCH SUBSTANCE USE DISORDER TREATMENT WHILE A DETER-  
22 MINATION BY THE UTILIZATION REVIEW AGENT OR EXTERNAL APPEAL AGENT IS  
23 PENDING.  
24

25 S 6-a. Item (B) of subparagraph (i) of paragraph (a) of subdivision 2  
26 of section 4900 of the public health law, as amended by chapter 586 of  
27 the laws of 1998, is amended and a new subparagraph (iii) is added to  
28 read as follows:

29 (B) is in the same profession and same or similar specialty as the  
30 health care provider who typically manages the medical condition or  
31 disease or provides the health care service or treatment under review;  
32 [and] OR

33 (III) FOR PURPOSES OF A DETERMINATION INVOLVING SUBSTANCE USE DISORDER  
34 TREATMENT:

35 (A) A PHYSICIAN WHO POSSESSES A CURRENT AND VALID NON-RESTRICTED  
36 LICENSE TO PRACTICE MEDICINE AND WHO SPECIALIZES IN BEHAVIORAL HEALTH  
37 AND HAS EXPERIENCE IN THE DELIVERY OF SUBSTANCE USE DISORDER COURSES OF  
38 TREATMENT; OR

39 (B) A HEALTH CARE PROFESSIONAL OTHER THAN A LICENSED PHYSICIAN WHO  
40 SPECIALIZES IN BEHAVIORAL HEALTH AND HAS EXPERIENCE IN THE DELIVERY OF  
41 SUBSTANCE USE DISORDER COURSES OF TREATMENT AND, WHERE APPLICABLE,  
42 POSSESSES A CURRENT AND VALID NON-RESTRICTED LICENSE, CERTIFICATE OR  
43 REGISTRATION OR, WHERE NO PROVISION FOR A LICENSE, CERTIFICATE OR REGIS-  
44 TRATION EXISTS, IS CREDENTIALLED BY THE NATIONAL ACCREDITING BODY APPRO-  
45 PRIATE TO THE PROFESSION; AND

46 S 7. Subdivision 1 of section 4902 of the public health law is amended  
47 by adding a new paragraph (i) to read as follows:

48 (I) WHEN CONDUCTING UTILIZATION REVIEW FOR PURPOSES OF DETERMINING  
49 HEALTH CARE COVERAGE FOR SUBSTANCE USE DISORDER TREATMENT, A UTILIZATION  
50 REVIEW AGENT SHALL UTILIZE RECOGNIZED EVIDENCE-BASED AND PEER REVIEWED  
51 CLINICAL REVIEW CRITERIA THAT IS APPROPRIATE TO THE AGE OF THE PATIENT  
52 AND IS DEEMED APPROPRIATE AND APPROVED FOR SUCH USE BY THE COMMISSIONER  
53 OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION  
54 WITH THE COMMISSIONER AND THE SUPERINTENDENT OF FINANCIAL SERVICES.

55 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES IN CONSULTATION  
56 WITH THE COMMISSIONER AND THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL

1 APPROVE A RECOGNIZED EVIDENCE-BASED AND PEER REVIEWED CLINICAL REVIEW  
2 CRITERIA, IN ADDITION TO ANY OTHER APPROVED EVIDENCE-BASED AND PEER  
3 REVIEWED CLINICAL REVIEW CRITERIA.

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

7 3. (A) A utilization review agent shall make a determination involving  
8 continued or extended health care services, additional services for an  
9 enrollee undergoing a course of continued treatment prescribed by a  
10 health care provider, OR REQUESTS FOR INPATIENT SUBSTANCE USE DISORDER  
11 TREATMENT, or home health care services following an inpatient hospital  
12 admission, and shall provide notice of such determination to the enrol-  
13 lee or the enrollee's designee, which may be satisfied by notice to the  
14 enrollee's health care provider, by telephone and in writing within one  
15 business day of receipt of the necessary information except, with  
16 respect to home health care services following an inpatient hospital  
17 admission, within seventy-two hours of receipt of the necessary informa-  
18 tion when the day subsequent to the request falls on a weekend or holi-  
19 day AND EXCEPT, WITH RESPECT TO INPATIENT SUBSTANCE USE DISORDER TREAT-  
20 MENT, WITHIN TWENTY-FOUR HOURS OF RECEIPT OF THE REQUEST FOR SERVICES  
21 WHEN THE REQUEST IS SUBMITTED AT LEAST TWENTY-FOUR HOURS PRIOR TO  
22 DISCHARGE FROM AN INPATIENT ADMISSION. Notification of continued or  
23 extended services shall include the number of extended services  
24 approved, the new total of approved services, the date of onset of  
25 services and the next review date.

26 (B) Provided that a request for home health care services and all  
27 necessary information is submitted to the utilization review agent prior  
28 to discharge from an inpatient hospital admission pursuant to this  
29 subdivision, a utilization review agent shall not deny, on the basis of  
30 medical necessity or lack of prior authorization, coverage for home  
31 health care services while a determination by the utilization review  
32 agent is pending.

33 (C) PROVIDED THAT A REQUEST FOR INPATIENT TREATMENT FOR SUBSTANCE USE  
34 DISORDER IS SUBMITTED TO THE UTILIZATION REVIEW AGENT AT LEAST  
35 TWENTY-FOUR HOURS PRIOR TO DISCHARGE FROM AN INPATIENT ADMISSION PURSU-  
36 ANT TO THIS SUBDIVISION, A UTILIZATION REVIEW AGENT SHALL NOT DENY, ON  
37 THE BASIS OF MEDICAL NECESSITY OR LACK OF PRIOR AUTHORIZATION, COVERAGE  
38 FOR THE INPATIENT SUBSTANCE USE DISORDER TREATMENT WHILE A DETERMINATION  
39 BY THE UTILIZATION REVIEW AGENT IS PENDING.

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

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

45 (a) continued or extended health care services, procedures or treat-  
46 ments or additional services for an enrollee undergoing a course of  
47 continued treatment prescribed by a health care provider home health  
48 care services following discharge from an inpatient hospital admission  
49 pursuant to subdivision three of section forty-nine hundred three of  
50 this article; or

51 (b) an adverse determination in which the health care provider  
52 believes an immediate appeal is warranted except any retrospective  
53 determination. Such process shall include mechanisms which facilitate  
54 resolution of the appeal including but not limited to the sharing of  
55 information from the enrollee's health care provider and the utilization  
56 review agent by telephonic means or by facsimile. The utilization review

1 agent shall provide reasonable access to its clinical peer reviewer  
2 within one business day of receiving notice of the taking of an expedited appeal. Expedited appeals shall be determined within two business  
3 days of receipt of necessary information to conduct such appeal EXCEPT,  
4 WITH RESPECT TO INPATIENT SUBSTANCE USE DISORDER TREATMENT PROVIDED  
5 PURSUANT TO PARAGRAPH (C) OF SUBDIVISION 3 OF SECTION FOUR THOUSAND NINE  
6 HUNDRED THREE OF THIS ARTICLE, EXPEDITED APPEALS SHALL BE DETERMINED  
7 WITHIN TWENTY-FOUR HOURS OF RECEIPT OF SUCH APPEAL. Expedited appeals  
8 which do not result in a resolution satisfactory to the appealing party  
9 may be further appealed through the standard appeal process, or through  
10 the external appeal process pursuant to section forty-nine hundred four-  
11 teen of this article as applicable. PROVIDED THAT THE ENROLLEE OR THE  
12 ENROLLEE'S HEALTH CARE PROVIDER FILES AN EXPEDITED INTERNAL AND EXTERNAL  
13 APPEAL WITHIN TWENTY-FOUR HOURS FROM RECEIPT OF AN ADVERSE DETERMINATION  
14 FOR INPATIENT SUBSTANCE USE DISORDER TREATMENT FOR WHICH COVERAGE WAS  
15 PROVIDED WHILE THE INITIAL UTILIZATION REVIEW DETERMINATION WAS PENDING  
16 PURSUANT TO PARAGRAPH (C) OF SUBDIVISION 3 OF SECTION FOUR THOUSAND NINE  
17 HUNDRED THREE OF THIS ARTICLE, A UTILIZATION REVIEW AGENT SHALL NOT DENY  
18 ON THE BASIS OF MEDICAL NECESSITY OR LACK OF PRIOR AUTHORIZATION SUCH  
19 SUBSTANCE USE DISORDER TREATMENT WHILE A DETERMINATION BY THE UTILIZA-  
20 TION REVIEW AGENT OR EXTERNAL APPEAL AGENT IS PENDING.

21  
22 S 10. Section 309 of the insurance law is amended by adding a new  
23 subsection (c) to read as follows:

24 (C) AS PART OF AN EXAMINATION, THE SUPERINTENDENT SHALL REVIEW DETER-  
25 MINATIONS OF COVERAGE FOR SUBSTANCE USE DISORDER TREATMENT AND SHALL  
26 ENSURE THAT SUCH DETERMINATIONS ARE ISSUED IN COMPLIANCE WITH SECTIONS  
27 THREE THOUSAND TWO HUNDRED SIXTEEN, THREE THOUSAND TWO HUNDRED  
28 TWENTY-ONE, FOUR THOUSAND THREE HUNDRED THREE, AND TITLE ONE OF ARTICLE  
29 FORTY-NINE OF THIS CHAPTER.

30 S 10-a. Subdivision 2 of section 4409 of the public health law, as  
31 amended by chapter 805 of the laws of 1984, is amended to read as  
32 follows:

33 2. The superintendent shall examine not less than once every three  
34 years into the financial affairs of each health maintenance organiza-  
35 tion, and transmit his findings to the commissioner. In connection with  
36 any such examination, the superintendent shall have convenient access at  
37 all reasonable hours to all books, records, files and other documents  
38 relating to the affairs of such organization, which are relevant to the  
39 examination. The superintendent may exercise the powers set forth in  
40 sections three hundred four, three hundred five, three hundred six and  
41 three hundred ten of the insurance law in connection with such examina-  
42 tions, and may also require special reports from such health maintenance  
43 organizations as specified in section three hundred eight of the insur-  
44 ance law. AS PART OF AN EXAMINATION, THE SUPERINTENDENT SHALL REVIEW  
45 DETERMINATIONS OF COVERAGE FOR SUBSTANCE USE DISORDER TREATMENT AND  
46 SHALL ENSURE THAT SUCH DETERMINATIONS ARE ISSUED IN COMPLIANCE WITH  
47 SECTION FOUR THOUSAND THREE HUNDRED THREE OF THE INSURANCE LAW AND TITLE  
48 ONE OF ARTICLE FORTY-NINE OF THIS CHAPTER.

49 S 11. 1. Within thirty days of the effective date of this act, the  
50 commissioner of the office of alcoholism and substance abuse services,  
51 superintendent of the department of financial services, and the commis-  
52 sioner of health, shall jointly convene a workgroup to study and make  
53 recommendations on improving access to and availability of substance use  
54 disorder treatment services in the state. The workgroup shall be  
55 co-chaired by such commissioners and superintendent, and shall also  
56 include, but not be limited to, representatives of health care provid-

1 ers, insurers, additional professionals, individuals and families who  
2 have been affected by addiction. The workgroup shall include, but not be  
3 limited to, a review of the following:

4 a. Identifying barriers to obtaining necessary substance use disorder  
5 treatment services for across the state;

6 b. Recommendations for increasing access to and availability of  
7 substance use disorder treatment services in the state, including under-  
8 served areas of the state;

9 c. Identifying best clinical practices for substance use disorder  
10 treatment services;

11 d. A review of current insurance coverage requirements and recommenda-  
12 tions for improving insurance coverage for substance use disorder treat-  
13 ment;

14 e. Recommendations for improving state agency communication and  
15 collaboration relating to substance use disorder treatment services in  
16 the state;

17 f. Resources for affected individuals and families who are having  
18 difficulties obtaining necessary substance use disorder treatment  
19 services; and

20 g. Methods for developing quality standards to measure the performance  
21 of substance use disorder treatment facilities in the state.

22 2. The workgroup shall submit a report of its findings and recommenda-  
23 tions to the governor, the temporary president of the senate, the speak-  
24 er of the assembly, the chairs of the senate and assembly insurance  
25 committees, and the chairs of the senate and assembly health committees  
26 no later than December 31, 2015.

27 S 12. This act shall take effect immediately; provided, however that  
28 sections one, two, three, three-a, four, five, six, six-a, seven, eight  
29 and nine of this act shall take effect April 1, 2015 and shall apply to  
30 policies and contracts issued, renewed, modified, altered or amended on  
31 and after such date.