

S. 7912

A. 10164

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

June 17, 2014

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.