

# STATE OF NEW YORK

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5476

2019-2020 Regular Sessions

## IN ASSEMBLY

February 12, 2019

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Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to coverage for eating disorders

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 35 to read as follows:

3 (35) (A) Every policy which provides medical coverage that includes  
4 coverage for physician services in a physician's office and every policy  
5 which provides major medical or similar comprehensive-type coverage  
6 shall include coverage for inpatient hospitalization, partial hospitali-  
7 zation, residential care, intensive outpatient treatment, follow up  
8 outpatient care and counseling for adults and children with eating  
9 disorders. Such coverage shall be provided under the terms and condi-  
10 tions otherwise applicable under the policy, including network limita-  
11 tions or variations, exclusions, co-pays, coinsurance, deductibles or  
12 other specific cost sharing mechanisms. Provided further, where a policy  
13 provides both in-network and out-of-network benefits, the out-of-network  
14 benefits may have different coinsurance, co-pays, or deductibles, than  
15 the in-network benefits, regardless of whether the policy is written  
16 under one license or two licenses.

17 (B) Coverage for treatment of an eating disorder provided under this  
18 paragraph is limited to medically necessary treatment that is provided  
19 by a licensed treating physician, psychiatrist, psychologist, mental  
20 health counselor, clinical social worker, or licensed marriage and fami-  
21 ly therapist, in accordance with a treatment plan. Such treatment plan,  
22 upon request by the insurer, shall include all elements necessary for  
23 such insurer to pay claims. Such elements include, but are not limited  
24 to, a diagnosis, proposed treatment by type, frequency and duration of  
25 treatment, and goals.

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

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1 (C) Medical necessity determinations and care management for the  
2 treatment of eating disorders shall consider the overall medical and  
3 mental health needs of the individual with an eating disorder, shall not  
4 be based solely on weight, and shall take into consideration the most  
5 recent Practice Guideline for the Treatment of Patients with Eating  
6 Disorders adopted by the American Psychiatric Association in addition to  
7 current standards based upon the medical literature generally recognized  
8 as authoritative in the medical community.

9 (D) For purposes of this paragraph, the term "eating disorder" means  
10 pica, rumination disorder, avoidant/restrictive food intake disorder,  
11 anorexia nervosa, bulimia nervosa, binge eating disorder, other speci-  
12 fied feeding or eating disorder, and any other eating disorder contained  
13 in the most recent version of the Diagnostic and Statistical Manual of  
14 Mental Disorders published by the American Psychiatric Association.

15 § 2. Subparagraph (B) of paragraph 5 of subsection (1) of section 3221  
16 of the insurance law, as amended by chapter 502 of the laws of 2007, is  
17 amended to read as follows:

18 (B) (i) Every insurer delivering a group or school blanket policy or  
19 issuing a group or school blanket policy for delivery, in this state,  
20 which provides coverage for inpatient hospital care or coverage for  
21 physician services, shall provide comparable coverage for adults and  
22 children with biologically based mental illness. Such group policies  
23 issued or delivered in this state shall also provide such comparable  
24 coverage for children with serious emotional disturbances. Such coverage  
25 shall be provided under the terms and conditions otherwise applicable  
26 under the policy, including network limitations or variations, exclu-  
27 sions, co-pays, coinsurance, deductibles or other specific cost sharing  
28 mechanisms. Provided further, where a policy provides both in-network  
29 and out-of-network benefits, the out-of-network benefits may have  
30 different coinsurance, co-pays, or deductibles, than the in-network  
31 benefits, regardless of whether the policy is written under one license  
32 or two licenses.

33 (ii) For purposes of this paragraph, the term "biologically based  
34 mental illness" means a mental, nervous, or emotional condition that is  
35 caused by a biological disorder of the brain and results in a clinically  
36 significant, psychological syndrome or pattern that substantially limits  
37 the functioning of the person with the illness. Such biologically based  
38 mental illnesses are defined as schizophrenia/psychotic disorders, major  
39 depression, bipolar disorder, delusional disorders, panic disorder,  
40 obsessive compulsive disorders[~~, bulimia, and anorexia~~] or an eating  
41 disorder.

42 (iii) (I) For purposes of this subsection, the term "eating disorder"  
43 means pica, rumination disorder, avoidant/restrictive food intake disor-  
44 der, anorexia nervosa, bulimia nervosa, binge eating disorder, other  
45 specified feeding or eating disorder, and any other eating disorder  
46 contained in the most recent version of the Diagnostic and Statistical  
47 Manual of Mental Disorders published by the American Psychiatric Associ-  
48 ation.

49 (II) Notwithstanding any provision of this section to the contrary,  
50 coverage for treatment of an eating disorder provided under this  
51 subsection shall include inpatient hospitalization, partial hospitaliza-  
52 tion, residential care, intensive outpatient treatment, follow up outpa-  
53 tient care and counseling, provided, however, such treatment is limited  
54 to medically necessary treatment that is provided by a licensed treating  
55 physician, psychiatrist, psychologist, mental health counselor, clinical  
56 social worker, or licensed marriage and family therapist, in accordance

1 with a treatment plan. Such treatment plan, upon request by the medical  
2 expense indemnity corporation or health service corporation, shall  
3 include all elements necessary for such corporation to pay claims. Such  
4 elements include, but are not limited to, a diagnosis, proposed treat-  
5 ment by type, frequency and duration of treatment, and goals.

6 (III) Medical necessity determinations and care management for the  
7 treatment of eating disorders shall consider the overall medical and  
8 mental health needs of the individual with an eating disorder, shall not  
9 be based solely on weight, and shall take into consideration the most  
10 recent Practice Guideline for the Treatment of Patients with Eating  
11 Disorders adopted by the American Psychiatric Association in addition to  
12 current standards based upon the medical literature generally recognized  
13 as authoritative in the medical community.

14 § 3. Paragraph 2 of subsection (g) of section 4303 of the insurance  
15 law, as amended by chapter 502 of the laws of 2007, is amended to read  
16 as follows:

17 (2) (A) A hospital service corporation or a health service corpo-  
18 ration, which provides group, group remittance or school blanket cover-  
19 age for inpatient hospital care, shall provide comparable coverage for  
20 adults and children with biologically based mental illness. Such hospi-  
21 tal service corporation or health service corporation shall also provide  
22 such comparable coverage for children with serious emotional disturb-  
23 ances. Such coverage shall be provided under the terms and conditions  
24 otherwise applicable under the contract, including network limitations  
25 or variations, exclusions, co-pays, coinsurance, deductibles or other  
26 specific cost sharing mechanisms. Provided further, where a contract  
27 provides both in-network and out-of-network benefits, the out-of-network  
28 benefits may have different coinsurance, co-pays, or deductibles, than  
29 the in-network benefits, regardless of whether the contract is written  
30 under one license or two licenses.

31 (B) For purposes of this subsection, the term "biologically based  
32 mental illness" means a mental, nervous, or emotional condition that is  
33 caused by a biological disorder of the brain and results in a clinically  
34 significant, psychological syndrome or pattern that substantially limits  
35 the functioning of the person with the illness. Such biologically based  
36 mental illnesses are defined as schizophrenia/psychotic disorders, major  
37 depression, bipolar disorder, delusional disorders, panic disorder,  
38 obsessive compulsive disorders[~~, anorexia, and bulimia~~] or an eating  
39 disorder.

40 (C) (i) For purposes of this subsection, the term "eating disorder"  
41 means pica, rumination disorder, avoidant/restrictive food intake disor-  
42 der, anorexia nervosa, bulimia nervosa, binge eating disorder, other  
43 specified feeding or eating disorder, and any other eating disorder  
44 contained in the most recent version of the Diagnostic and Statistical  
45 Manual of Mental Disorders published by the American Psychiatric Associ-  
46 ation.

47 (ii) Notwithstanding any provision of this section to the contrary,  
48 coverage for treatment of an eating disorder provided under this  
49 subsection shall include inpatient hospitalization, partial hospitaliza-  
50 tion, residential care, intensive outpatient treatment, follow up outpa-  
51 tient care and counseling, provided, however, such treatment is limited  
52 to medically necessary treatment that is provided by a licensed treating  
53 physician, psychiatrist, psychologist, mental health counselor, clinical  
54 social worker, or licensed marriage and family therapist, in accordance  
55 with a treatment plan. Such treatment plan, upon request by the medical  
56 expense indemnity corporation or health service corporation, shall

1 include all elements necessary for such corporation to pay claims. Such  
2 elements include, but are not limited to, a diagnosis, proposed treat-  
3 ment by type, frequency and duration of treatment, and goals.

4 (iii) Medical necessity determinations and care management for the  
5 treatment of eating disorders shall consider the overall medical and  
6 mental health needs of the individual with an eating disorder, shall not  
7 be based solely on weight, and shall take into consideration the most  
8 recent Practice Guideline for the Treatment of Patients with Eating  
9 Disorders adopted by the American Psychiatric Association in addition to  
10 current standards based upon the medical literature generally recognized  
11 as authoritative in the medical community.

12 § 4. Paragraph 2 of subsection (h) of section 4303 of the insurance  
13 law, as amended by chapter 502 of the laws of 2007, is amended to read  
14 as follows:

15 (2) (A) A medical expense indemnity corporation or a health service  
16 corporation, which provides group, group remittance or school blanket  
17 coverage for physician services, shall provide comparable coverage for  
18 adults and children with biologically based mental illness. Such medical  
19 expense indemnity corporation or health service corporation shall also  
20 provide such comparable coverage for children with serious emotional  
21 disturbances. Such coverage shall be provided under the terms and condi-  
22 tions otherwise applicable under the contract, including network limita-  
23 tions or variations, exclusions, co-pays, coinsurance, deductibles or  
24 other specific cost sharing mechanisms. Provided further, where a  
25 contract provides both in-network and out-of-network benefits, the out-  
26 of-network benefits may have different coinsurance, co-pays, or deduct-  
27 ibles, than the in-network benefits, regardless of whether the contract  
28 is written under one license or two licenses.

29 (B) For purposes of this subsection, the term "biologically based  
30 mental illness" means a mental, nervous, or emotional condition that is  
31 caused by a biological disorder of the brain and results in a clinically  
32 significant, psychological syndrome or pattern that substantially limits  
33 the functioning of the person with the illness. Such biologically based  
34 mental illnesses are defined as schizophrenia/psychotic disorders, major  
35 depression, bipolar disorder, delusional disorders, panic disorder,  
36 obsessive compulsive disorder[~~, anorexia, and bulimia~~] or an eating  
37 disorder.

38 (C) (i) For purposes of this subsection, the term "eating disorder"  
39 means pica, rumination disorder, avoidant/restrictive food intake disorder,  
40 anorexia nervosa, bulimia nervosa, binge eating disorder, other  
41 specified feeding or eating disorder, and any other eating disorder  
42 contained in the most recent version of the Diagnostic and Statistical  
43 Manual of Mental Disorders published by the American Psychiatric Associ-  
44 ation.

45 (ii) Notwithstanding any provision of this section to the contrary,  
46 coverage for treatment of an eating disorder provided under this  
47 subsection shall include inpatient hospitalization, partial hospitaliza-  
48 tion, residential care, intensive outpatient treatment, follow up outpa-  
49 tient care and counseling, provided, however, such treatment is limited  
50 to medically necessary treatment that is provided by a licensed treating  
51 physician, psychiatrist, psychologist, mental health counselor, clinical  
52 social worker, or licensed marriage and family therapist, in accordance  
53 with a treatment plan. Such treatment plan, upon request by the medical  
54 expense indemnity corporation or health service corporation, shall  
55 include all elements necessary for such corporation to pay claims. Such

1 elements include, but are not limited to, a diagnosis, proposed treat-  
2 ment by type, frequency and duration of treatment, and goals.

3 (iii) Medical necessity determinations and care management for the  
4 treatment of eating disorders shall consider the overall medical and  
5 mental health needs of the individual with an eating disorder, shall not  
6 be based solely on weight, and shall take into consideration the most  
7 recent Practice Guideline for the Treatment of Patients with Eating  
8 Disorders adopted by the American Psychiatric Association in addition to  
9 current standards based upon the medical literature generally recognized  
10 as authoritative in the medical community.

11 § 5. This act shall take effect on the ninetieth day after it shall  
12 have become a law; provided, however, that the provisions of this act  
13 shall apply to policies and contracts issued, renewed, modified, altered  
14 or amended on or after such effective date.