

STATE OF NEW YORK

4356

2019-2020 Regular Sessions

IN SENATE

March 8, 2019

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

AN ACT to amend the insurance law, in relation to mental health and substance use disorder parity reporting; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subsection (c-1) of section 210 of the insurance law, as
2 amended by a chapter of the laws of 2018 amending the insurance law
3 relating to establishing the mental health and substance use disorder
4 parity report act, as proposed in legislative bills numbers S. 1156-C
5 and A. 3694-C, is REPEALED.

6 § 2. The insurance law is amended by adding a new section 343 to read
7 as follows:

8 § 343. Mental health and substance use disorder parity report. (a)
9 Beginning July first, two thousand nineteen and every two years there-
10 after, each insurer providing managed care products, individual compre-
11 hensive accident and health insurance or group or blanket comprehensive
12 accident and health insurance, each corporation organized pursuant to
13 article forty-three of this chapter providing comprehensive health
14 insurance and each entity licensed pursuant to article forty-four of the
15 public health law providing comprehensive health service plans shall
16 submit to the superintendent, in a form and manner prescribed by the
17 superintendent, a report detailing the entity's compliance with federal
18 and state mental health and substance use disorder parity laws based on
19 the entity's record during the preceding two calendar years. The super-
20 intendent shall publish on the department's website on or before October
21 first, two thousand nineteen, and every two years thereafter, the
22 reports submitted pursuant to this section.

23 (b) Each person required to submit a report under this section shall
24 include in the report the following information:

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

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1 (1) Rates of utilization review for mental health and substance use
2 disorder claims as compared to medical and surgical claims, including
3 rates of approval and denial, categorized by benefits provided under the
4 following classifications: inpatient in-network, inpatient out-of-net-
5 work, outpatient in-network, outpatient out-of-network, emergency care,
6 and prescription drugs;

7 (2) The number of prior or concurrent authorization requests for
8 mental health services and for substance use disorder services and the
9 number of denials for such requests, compared with the number of prior
10 or concurrent authorization requests for medical and surgical services
11 and the number of denials for such requests, categorized by the same
12 classifications identified in paragraph one of this subsection;

13 (3) The rates of appeals of adverse determinations, including the
14 rates of adverse determinations upheld and overturned, for mental health
15 claims and substance use disorder claims compared with the rates of
16 appeals of adverse determinations, including the rates of adverse deter-
17 minations upheld and overturned, for medical and surgical claims;

18 (4) The percentage of claims paid for in-network mental health
19 services and for substance use disorder services compared with the
20 percentage of claims paid for in-network medical and surgical services
21 and the percentage of claims paid for out-of-network mental health
22 services and substance use disorder services compared with the percent-
23 age of claims paid for out-of-network medical and surgical services;

24 (5) The number of behavioral health advocates, pursuant to an agree-
25 ment with the office of the attorney general if applicable, or staff
26 available to assist policyholders with mental health benefits and
27 substance use disorder benefits;

28 (6) A comparison of the cost sharing requirements including but not
29 limited to co-pays and coinsurance, and the benefit limitations includ-
30 ing limitations on the scope and duration of coverage, for medical and
31 surgical services, and mental health services and substance use disorder
32 services for coverage in the individual, small group, and large group
33 markets, provided that the comparison captures at least seventy-five
34 percent of a company's enrollees in each market;

35 (7) The number by type of providers licensed to practice in this state
36 that provide services for the treatment and diagnosis of substance use
37 disorder who are in-network, and the number by type of providers
38 licensed to practice in this state that provide services for the diagno-
39 sis and treatment of mental, nervous or emotional disorders and
40 ailments, however defined in a company's policy, who are in-network;

41 (8) The percentage of providers of services for the treatment and
42 diagnosis of substance use disorder who remained participating provid-
43 ers, and the percentage of providers of services for the diagnosis and
44 treatment of mental, nervous or emotional disorders and ailments, howev-
45 er defined in a company's policy, who remained participating providers;
46 and

47 (9) Any other data, information, or metric the superintendent deems
48 necessary or useful to measure compliance with mental health and
49 substance use disorder parity including, but not limited to an evalu-
50 ation and assessment of: (i) the adequacy of the company's in-network
51 mental health services and substance use disorder provider panels pursu-
52 ant to provisions of the insurance law and public health law; and (ii)
53 the company's reimbursement for in-network and out-of-network mental
54 health services and substance use disorder services as compared to the
55 reimbursement for in-network and out-of-network medical and surgical
56 services.

1 § 3. Subsection (d) of section 210 of the insurance law, as amended by
2 a chapter of the laws of 2018 amending the insurance law relating to
3 establishing the mental health and substance use disorder parity report
4 act, as proposed in legislative bills numbers S. 1156-C and A. 3694-C,
5 is amended to read as follows:

6 (d) Health insurers and entities certified pursuant to article forty-
7 four of the public health law shall provide annually to the superinten-
8 dent and the commissioner of health, and the commissioner of health
9 shall provide to the superintendent, all of the information necessary
10 for the superintendent to produce the annual consumer guide[~~, including~~
11 ~~the mental health and substance use disorder parity report~~]. In compil-
12 ing the guide, the superintendent shall make every effort to ensure that
13 the information is presented in a clear, understandable fashion which
14 facilitates comparisons among individual insurers and entities, and in a
15 format which lends itself to the widest possible distribution to consum-
16 ers. The superintendent shall either include the information from the
17 annual consumer guide in the consumer shopping guide required by
18 subsection (a) of section four thousand three hundred twenty-three of
19 this chapter or combine the two guides as long as consumers in the indi-
20 vidual market are provided with the information required by subsection
21 (a) of section four thousand three hundred twenty-three of this chapter.

22 § 4. This act shall take effect on the same date and in the same
23 manner as a chapter of the laws of 2018 amending the insurance law
24 relating to establishing the mental health and substance use disorder
25 parity report act, as proposed in legislative bills numbers S. 1156-C
26 and A. 3694-C, takes effect. Effective immediately, the amendment and/or
27 repeal of any rule or regulation necessary for the implementation of
28 this act on its effective date are authorized and directed to be made
29 and completed on or before such effective date.