

STATE OF NEW YORK

5476

2019-2020 Regular Sessions

IN ASSEMBLY

February 12, 2019

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

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

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

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

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

(iii) (I) For purposes of this subsection, the term "eating disorder" means pica, rumination disorder, avoidant/restrictive food intake disorder, anorexia nervosa, bulimia nervosa, binge eating disorder, other specified feeding or eating disorder, and any other eating disorder contained in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(II) Notwithstanding any provision of this section to the contrary, coverage for treatment of an eating disorder provided under this subsection shall include inpatient hospitalization, partial hospitalization, residential care, intensive outpatient treatment, follow up outpatient care and counseling, provided, however, such treatment is limited to medically necessary treatment that is provided by a licensed treating physician, psychiatrist, psychologist, mental health counselor, clinical 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.