STATE OF NEW YORK

4929

2019-2020 Regular Sessions

IN SENATE

March 29, 2019

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed 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:

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 35 to read as follows:

(35) (A) Every policy which provides medical coverage that includes coverage for physician services in a physician's office and every policy which provides major medical or similar comprehensive-type coverage shall include coverage for inpatient hospitalization, partial hospitalization, residential care, intensive outpatient treatment, follow up outpatient care and counseling for adults and children with eating disorders. 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.

(B) Coverage for treatment of an eating disorder provided under this paragraph 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 with a treatment plan. Such treatment plan, upon request by the insurer, shall include all elements necessary for such insurer to pay claims. Such elements include, but are not limited to, a diagnosis, proposed treatment by type, frequency and duration of 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 (l) 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

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

(III) 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.

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

(2) (A) A hospital service corporation or a health service corporation, which provides group, group remittance or school blanket coverage for inpatient hospital care, shall provide comparable coverage for adults and children with biologically based mental illness. Such hospital service corporation or health service corporation 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 contract, including network limitations or variations, exclusions, co-pays, coinsurance, deductibles or other specific cost sharing mechanisms. Provided further, where a contract 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 contract is written under one license or two licenses.

(B) For purposes of this subsection, 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[~~, anorexia, and bulimia~~] or an eating disorder.

(C) (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 with a treatment plan. Such treatment plan, upon request by the medical expense indemnity corporation or health service corporation, shall

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

(iii) 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.

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

(2) (A) A medical expense indemnity corporation or a health service corporation, which provides group, group remittance or school blanket coverage for physician services, shall provide comparable coverage for adults and children with biologically based mental illness. Such medical expense indemnity corporation or health service corporation 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 contract, including network limitations or variations, exclusions, co-pays, coinsurance, deductibles or other specific cost sharing mechanisms. Provided further, where a contract 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 contract is written under one license or two licenses.

(B) For purposes of this subsection, 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 disorder[~~, anorexia, and bulimia~~] or an eating disorder.

(C) (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 with a treatment plan. Such treatment plan, upon request by the medical expense indemnity corporation or health service corporation, shall include all elements necessary for such corporation to pay claims. Such

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

(iii) 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.

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