

# STATE OF NEW YORK

9341

## IN ASSEMBLY

March 6, 2024

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

AN ACT to amend the insurance law, in relation to certain cost sharing fees for outpatient treatment at a substance use treatment program

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

1 Section 1. Subparagraph (E) of paragraph 31 of subsection (i) of  
2 section 3216 of the insurance law, as amended by section 6 of subpart A  
3 of part BB of chapter 57 of the laws of 2019, is amended and a new  
4 subparagraph (J) is added to read as follows:

5 (E) This subparagraph shall apply to facilities in this state that are  
6 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
7 ~~and substance abuse~~] addiction services and supports for the provision  
8 of outpatient, intensive outpatient, outpatient rehabilitation and  
9 opioid treatment that are participating in the insurer's provider  
10 network. Coverage provided under this paragraph shall not be subject to  
11 preauthorization. Coverage provided under this paragraph shall not be  
12 subject to concurrent review for the first four weeks of continuous  
13 treatment, not to exceed twenty-eight visits, provided the facility  
14 notifies the insurer of both the start of treatment and the initial  
15 treatment plan within two business days. The facility shall perform  
16 clinical assessment of the patient at each visit, including periodic  
17 consultation with the insurer at or just prior to the fourteenth day of  
18 treatment to ensure that the facility is using the evidence-based and  
19 peer reviewed clinical review tool utilized by the insurer which is  
20 designated by the office of [~~alcoholism and substance abuse~~] addiction  
21 services and supports and appropriate to the age of the patient, to  
22 ensure that the outpatient treatment is medically necessary for the  
23 patient. Any utilization review of the treatment provided under this  
24 subparagraph may include a review of all services provided during such  
25 outpatient treatment, including all services provided during the first  
26 four weeks of continuous treatment, not to exceed twenty-eight visits,  
27 of such outpatient treatment. Provided, however, the insurer shall only  
28 deny coverage for any portion of the initial four weeks of continuous

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

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1 treatment, not to exceed twenty-eight visits, for outpatient treatment  
2 on the basis that such treatment was not medically necessary if such  
3 outpatient treatment was contrary to the evidence-based and peer  
4 reviewed clinical review tool utilized by the insurer which is design-  
5 nated by the office of [~~alcoholism and substance abuse~~] addiction  
6 services and supports. An insured shall only have financial responsibil-  
7 ities as set out in subparagraph (J) of this paragraph and shall not  
8 have any financial obligation to the facility for any treatment under  
9 this subparagraph other than any [~~copayment,~~] coinsurance[~~, or deduct-~~  
10 ~~ible~~] otherwise required under the policy.

11 (J) For a substance use disorder outpatient treatment episode of care  
12 by a provider licensed, certified or otherwise authorized by the office  
13 of addiction services and supports, an insured shall only be responsible  
14 for a cost sharing fee not to exceed five hundred dollars. An insurer  
15 providing coverage under this paragraph shall be responsible for all  
16 other financial obligations to the facility. An episode of care is  
17 defined to include up to sixty visits with the same treatment provider.

18 § 2. Subparagraphs (C-1) and (E) of paragraph 7 of subsection (1) of  
19 section 3221 of the insurance law, subparagraph (C-1) as added by  
20 section 16 and subparagraph (E) as amended by section 17 of subpart A of  
21 part BB of chapter 57 of the laws of 2019, are amended and a new subpar-  
22 agraph (J) is added to read as follows:

23 (C-1) A large group policy that provides coverage under this paragraph  
24 shall not impose [~~copayments or~~] coinsurance for outpatient substance  
25 use disorder services that exceeds the [~~copayment or~~] coinsurance  
26 imposed for a primary care office visit. [~~Provided that no greater than~~  
27 ~~one such copayment may be imposed for all services provided in a single~~  
28 ~~day by a facility licensed, certified or otherwise authorized by the~~  
29 ~~office of alcoholism and substance abuse services to provide outpatient~~  
30 ~~substance use disorder services] A large group policy that provides  
31 coverage under this paragraph shall not impose copayments for outpatient  
32 substance use disorder services.~~

33 (E) This subparagraph shall apply to facilities in this state that are  
34 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
35 ~~and substance abuse~~] addiction services and supports for the provision  
36 of outpatient, intensive outpatient, outpatient rehabilitation and  
37 opioid treatment that are participating in the insurer's provider  
38 network. Coverage provided under this paragraph shall not be subject to  
39 preauthorization. Coverage provided under this paragraph shall not be  
40 subject to concurrent review for the first four weeks of continuous  
41 treatment, not to exceed twenty-eight visits, provided the facility  
42 notifies the insurer of both the start of treatment and the initial  
43 treatment plan within two business days. The facility shall perform  
44 clinical assessment of the patient at each visit, including periodic  
45 consultation with the insurer at or just prior to the fourteenth day of  
46 treatment to ensure that the facility is using the evidence-based and  
47 peer reviewed clinical review tool utilized by the insurer which is  
48 designated by the office of [~~alcoholism and substance abuse~~] addiction  
49 services and supports and appropriate to the age of the patient, to  
50 ensure that the outpatient treatment is medically necessary for the  
51 patient. Any utilization review of the treatment provided under this  
52 subparagraph may include a review of all services provided during such  
53 outpatient treatment, including all services provided during the first  
54 four weeks of continuous treatment, not to exceed twenty-eight visits,  
55 of such outpatient treatment. Provided, however, the insurer shall only  
56 deny coverage for any portion of the initial four weeks of continuous

1 treatment, not to exceed twenty-eight visits, for outpatient treatment  
2 on the basis that such treatment was not medically necessary if such  
3 outpatient treatment was contrary to the evidence-based and peer  
4 reviewed clinical review tool utilized by the insurer which is design-  
5 nated by the office of [~~alcoholism and substance abuse~~] addiction  
6 services and supports. An insured shall only have financial responsibil-  
7 ities as set out in subparagraph (J) of this paragraph and shall not  
8 have any financial obligation to the facility for any treatment under  
9 this subparagraph other than any [~~copayment,~~] coinsurance[~~, or deduct-~~  
10 ~~ible~~] otherwise required under the policy.

11 (J) For a substance use disorder outpatient treatment episode of care  
12 by a provider licensed, certified or otherwise authorized by the office  
13 of addiction services and supports, an insured shall only be responsible  
14 for a cost sharing fee not to exceed five hundred dollars. An insurer  
15 providing coverage under this paragraph shall be responsible for all  
16 other financial obligations to the facility. An episode of care is  
17 defined to include up to sixty visits with the same treatment provider.

18 § 3. Paragraphs 3-a and 5 of subsection (1) of section 4303 of the  
19 insurance law, paragraph 3-a as added by section 27 and paragraph 5 as  
20 amended by section 28 of subpart A of part BB of chapter 57 of the laws  
21 of 2019, are amended and a new paragraph 10 is added to read as follows:

22 (3-a) A contract that provides large group coverage under this  
23 subsection shall not impose [~~copayments or~~] coinsurance for outpatient  
24 substance use disorder services that exceed the [~~copayment or~~] coinsu-  
25 rance imposed for a primary care office visit. [~~Provided that no greater~~  
26 ~~than one such copayment may be imposed for all services provided in a~~  
27 ~~single day by a facility licensed, certified or otherwise authorized by~~  
28 ~~the office of alcoholism and substance abuse services to provide outpa-~~  
29 ~~tient substance use disorder services] A large group policy that  
30 provides coverage under this paragraph shall not impose copayments for  
31 outpatient substance use disorder services.~~

32 (5) This paragraph shall apply to facilities in this state that are  
33 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
34 ~~and substance abuse~~] addiction services and supports for the provision  
35 of outpatient, intensive outpatient, outpatient rehabilitation and  
36 opioid treatment that are participating in the corporation's provider  
37 network. Coverage provided under this subsection shall not be subject to  
38 preauthorization. Coverage provided under this subsection shall not be  
39 subject to concurrent review for the first four weeks of continuous  
40 treatment, not to exceed twenty-eight visits, provided the facility  
41 notifies the corporation of both the start of treatment and the initial  
42 treatment plan within two business days. The facility shall perform  
43 clinical assessment of the patient at each visit, including periodic  
44 consultation with the corporation at or just prior to the fourteenth day  
45 of treatment to ensure that the facility is using the evidence-based and  
46 peer reviewed clinical review tool utilized by the corporation which is  
47 designated by the office of [~~alcoholism and substance abuse~~] addiction  
48 services and supports and appropriate to the age of the patient, to  
49 ensure that the outpatient treatment is medically necessary for the  
50 patient. Any utilization review of the treatment provided under this  
51 paragraph may include a review of all services provided during such  
52 outpatient treatment, including all services provided during the first  
53 four weeks of continuous treatment, not to exceed twenty-eight visits,  
54 of such outpatient treatment. Provided, however, the corporation shall  
55 only deny coverage for any portion of the initial four weeks of contin-  
56 uous treatment, not to exceed twenty-eight visits, for outpatient treat-

1 ment on the basis that such treatment was not medically necessary if  
2 such outpatient treatment was contrary to the evidence-based and peer  
3 reviewed clinical review tool utilized by the corporation which is  
4 designated by the office of [~~alcoholism and substance abuse~~] addiction  
5 services and supports. A subscriber shall only have financial responsi-  
6 bilities as set out in paragraph ten of this subsection and shall not  
7 have any financial obligation to the facility for any treatment under  
8 this paragraph other than any [~~copayment,~~] coinsurance[~~, or deductible~~]  
9 otherwise required under the contract.

10 (10) For a substance use disorder outpatient treatment episode of care  
11 by a provider licensed, certified or otherwise authorized by the office  
12 of addiction services and supports, an insured shall only be responsible  
13 for a cost sharing fee not to exceed five hundred dollars. An insurer  
14 providing coverage under this paragraph shall be responsible for all  
15 other financial obligations to the facility. An episode of care is  
16 defined to include up to sixty visits with the same treatment provider.

17 § 4. This act shall take effect on the first of January next succeed-  
18 ing the date on which it shall have become a law and shall apply to  
19 policies and contracts issued, renewed, modified, altered or amended on  
20 and after such date.