

# STATE OF NEW YORK

7288

2023-2024 Regular Sessions

## IN SENATE

May 19, 2023

Introduced by Sen. FERNANDEZ -- 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 prohibiting copayments 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

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

LBD11569-01-3

1 four weeks of continuous treatment, not to exceed twenty-eight visits,  
2 of such outpatient treatment. Provided, however, the insurer shall only  
3 deny coverage for any portion of the initial four weeks of continuous  
4 treatment, not to exceed twenty-eight visits, for outpatient treatment  
5 on the basis that such treatment was not medically necessary if such  
6 outpatient treatment was contrary to the evidence-based and peer  
7 reviewed clinical review tool utilized by the insurer which is desig-  
8 nated by the office of [~~alcoholism and substance abuse~~] addiction  
9 services and supports. An insured shall not have any financial obli-  
10 gation to the facility for any treatment under this subparagraph other  
11 than any [~~copayment~~] coinsurance[7] or deductible otherwise required  
12 under the policy.

13 (J) Such coverage under this paragraph shall not impose a copayment  
14 fee for any outpatient treatment visits during the course of treatment  
15 of substance use disorder by a provider licensed, certified or otherwise  
16 authorized by the office of addiction services and supports.

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

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

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

1 reviewed clinical review tool utilized by the insurer which is desig-  
2 nated by the office of [~~alcoholism and substance abuse~~] addiction  
3 services and supports. An insured shall not have any financial obli-  
4 gation to the facility for any treatment under this subparagraph other  
5 than any [~~copayment, 7~~] coinsurance[~~7~~] or deductible otherwise required  
6 under the policy.

7 (J) Such coverage shall not impose a copayment fee for any outpatient  
8 treatment visits during the course of treatment of substance use disorder  
9 by a provider licensed, certified or otherwise authorized by the  
10 office of addiction services and supports.

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

15 (3-a) A contract that provides large group coverage under this  
16 subsection shall not impose [~~copayments or~~] coinsurance for outpatient  
17 substance use disorder services that exceed the [~~copayment or~~] coinsu-  
18 rance imposed for a primary care office visit. [~~Provided that no greater~~  
19 ~~than one such copayment may be imposed for all services provided in a~~  
20 ~~single day by a facility licensed, certified or otherwise authorized by~~  
21 ~~the office of alcoholism and substance abuse services to provide outpa-~~  
22 ~~tient substance use disorder services.~~]

23 (5) This paragraph shall apply to facilities in this state that are  
24 licensed, certified or otherwise authorized by the office of [~~alcoholism~~  
25 ~~and substance abuse~~] addiction services and supports for the provision  
26 of outpatient, intensive outpatient, outpatient rehabilitation and  
27 opioid treatment that are participating in the corporation's provider  
28 network. Coverage provided under this subsection shall not be subject to  
29 preauthorization. Coverage provided under this subsection shall not be  
30 subject to concurrent review for the first four weeks of continuous  
31 treatment, not to exceed twenty-eight visits, provided the facility  
32 notifies the corporation of both the start of treatment and the initial  
33 treatment plan within two business days. The facility shall perform  
34 clinical assessment of the patient at each visit, including periodic  
35 consultation with the corporation at or just prior to the fourteenth day  
36 of treatment to ensure that the facility is using the evidence-based and  
37 peer reviewed clinical review tool utilized by the corporation which is  
38 designated by the office of [~~alcoholism and substance abuse~~] addiction  
39 services and supports and appropriate to the age of the patient, to  
40 ensure that the outpatient treatment is medically necessary for the  
41 patient. Any utilization review of the treatment provided under this  
42 paragraph may include a review of all services provided during such  
43 outpatient treatment, including all services provided during the first  
44 four weeks of continuous treatment, not to exceed twenty-eight visits,  
45 of such outpatient treatment. Provided, however, the corporation shall  
46 only deny coverage for any portion of the initial four weeks of contin-  
47 uous treatment, not to exceed twenty-eight visits, for outpatient treat-  
48 ment on the basis that such treatment was not medically necessary if  
49 such outpatient treatment was contrary to the evidence-based and peer  
50 reviewed clinical review tool utilized by the corporation which is  
51 designated by the office of [~~alcoholism and substance abuse~~] addiction  
52 services and supports. A subscriber shall not have any financial obli-  
53 gation to the facility for any treatment under this paragraph other than  
54 any [~~copayment, 7~~] coinsurance[~~7~~] or deductible otherwise required under  
55 the contract.

1 (10) Such coverage shall not impose a copayment fee for any outpatient  
2 treatment visits during the course of treatment of substance use disor-  
3 der by a provider licensed, certified or otherwise authorized by the  
4 office of addiction services and supports.

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