STATE OF NEW YORK

8045

2023-2024 Regular Sessions

IN ASSEMBLY

September 13, 2023

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

AN ACT to amend the social services law and the insurance law, in relation to requiring comprehensive coverage for treatment of obesity

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

Section 1. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (mm) to read as follows:

(mm) (i) Comprehensive coverage for treatment of obesity, which shall include coverage for prevention and wellness, nutrition counseling, intensive behavioral therapy, bariatric surgery, and FDA-approved anti-obesity medication. For purposes of this paragraph, "FDA-approved anti-obesity medication" shall mean any medication approved by the federal food and drug administration with an indication for chronic weight management in patients with obesity.

(ii) Coverage criteria for FDA-approved anti-obesity medications provided under this paragraph shall not be more restrictive than the FDA-approved indications for such treatments.

(iii) Coverage under this paragraph shall be neither different nor separate from coverage for any other illness, condition, or disorder for purposes of determining deductibles, lifetime dollar limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

(iv) Nothing shall preclude the undertaking of utilization management to determine the medical necessity for treatment of obesity under this paragraph, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan.

(v) The department shall provide notice to eligible persons regarding the coverage required by this paragraph. The notice shall be in writing

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

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and shall be prominently positioned in any literature or correspondence sent to members and shall be transmitted to members within the calendar year when annual information is made available to eligible persons, or in any other mailing or communication to eligible persons.

§ 2. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 39 to read as follows:

(39) (A) Every policy which provides medical, major medical, or similar comprehensive-type coverage shall provide comprehensive coverage for treatment of obesity, which shall include coverage for prevention and wellness, nutrition counseling, intensive behavioral therapy, bariatric surgery, and FDA-approved anti-obesity medication. For purposes of this paragraph, "FDA-approved anti-obesity medication" shall mean any medication approved by the federal food and drug administration with an indication for chronic weight management in patients with obesity.

(B) Coverage criteria for FDA-approved anti-obesity medications provided under this paragraph shall not be more restrictive than the FDA-approved indications for those treatments.

(C) Coverage under this paragraph shall neither be different nor separate from coverage for any other illness, condition, or disorder for purposes of determining deductibles, lifetime dollar limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

(D) Nothing shall preclude the undertaking of utilization management to determine the medical necessity for treatment of obesity under this paragraph, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan.

(E) The insurer shall provide notice to covered persons regarding the coverage required by this paragraph. The notice shall be in writing and shall be prominently positioned in any literature or correspondence sent to members and shall be transmitted to members within the calendar year when annual information is made available to covered persons, or in any other mailing or communication to covered persons.

§ 3. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 22 to read as follows:

(22) (A) Every insurer delivering a group or blanket policy for delivery in this state that provides medical, major medical, or similar comprehensive-type coverage shall provide comprehensive coverage for treatment of obesity, which shall include coverage for prevention and wellness, nutrition counseling, intensive behavioral therapy, bariatric surgery, and FDA-approved anti-obesity medication. For purposes of this paragraph, "FDA-approved anti-obesity medication" shall mean any medication approved by the federal food and drug administration with an indication for chronic weight management in patients with obesity.

(B) Coverage criteria for FDA-approved anti-obesity medications provided under this paragraph shall not be more restrictive than the FDA-approved indications for those treatments.

(C) Coverage under this paragraph shall neither be different nor separate from coverage for any other illness, condition, or disorder for purposes of determining deductibles, lifetime dollar limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

(D) Nothing shall preclude the undertaking of utilization management to determine the medical necessity for treatment of obesity under this paragraph, provided that all such appropriateness and medical necessity

determinations are made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan.

(E) The insurer shall provide notice to covered persons regarding the coverage required by this paragraph. The notice shall be in writing and shall be prominently positioned in any literature or correspondence sent to members and shall be transmitted to members within the calendar year when annual information is made available to covered persons, or in any other mailing or communication to covered persons.

§ 4. Section 4303 of the insurance law is amended by adding a new subsection (vv) to read as follows:

(vv) (1) Every policy which provides medical, major medical, or similar comprehensive-type coverage shall provide comprehensive coverage for treatment of obesity, which shall include coverage for prevention and wellness, nutrition counseling, intensive behavioral therapy, bariatric surgery, and FDA-approved anti-obesity medication. For purposes of this subsection, "FDA-approved anti-obesity medication" shall mean any medication approved by the federal food and drug administration with an indication for chronic weight management in patients with obesity.

(2) Coverage criteria for FDA-approved anti-obesity medications provided under this subsection shall not be more restrictive than the FDA-approved indications for those treatments.

(3) Coverage under this subsection shall neither be different nor separate from coverage for any other illness, condition, or disorder for purposes of determining deductibles, lifetime dollar limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

(4) Nothing shall preclude the undertaking of utilization management to determine the medical necessity for treatment of obesity under this subsection, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan.

(5) The insurer shall provide notice to covered persons regarding the coverage required by this subsection. The notice shall be in writing and shall be prominently positioned in any literature or correspondence sent to members and shall be transmitted to members within the calendar year when annual information is made available to covered persons, or in any other mailing or communication to covered persons.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to any policy issued, delivered, renewed, and/or modified on or after the effective date of this act.