

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:

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

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

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

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

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

24 (v) The department shall provide notice to eligible persons regarding
25 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.

LBD11933-01-3

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

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

7 (39) (A) Every policy which provides medical, major medical, or simi-
8 lar comprehensive-type coverage shall provide comprehensive coverage for
9 treatment of obesity, which shall include coverage for prevention and
10 wellness, nutrition counseling, intensive behavioral therapy, bariatric
11 surgery, and FDA-approved anti-obesity medication. For purposes of this
12 paragraph, "FDA-approved anti-obesity medication" shall mean any medica-
13 tion approved by the federal food and drug administration with an indi-
14 cation for chronic weight management in patients with obesity.

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

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

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

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

35 § 3. Subsection (1) of section 3221 of the insurance law is amended by
36 adding a new paragraph 22 to read as follows:

37 (22) (A) Every insurer delivering a group or blanket policy for deliv-
38 ery in this state that provides medical, major medical, or similar
39 comprehensive-type coverage shall provide comprehensive coverage for
40 treatment of obesity, which shall include coverage for prevention and
41 wellness, nutrition counseling, intensive behavioral therapy, bariatric
42 surgery, and FDA-approved anti-obesity medication. For purposes of this
43 paragraph, "FDA-approved anti-obesity medication" shall mean any medica-
44 tion approved by the federal food and drug administration with an indi-
45 cation for chronic weight management in patients with obesity.

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

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

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

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

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

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

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

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

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

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

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

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