

# STATE OF NEW YORK

7288--A

2023-2024 Regular Sessions

## IN SENATE

May 19, 2023

Introduced by Sens. FERNANDEZ, KENNEDY, RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

LBD11569-03-4

1 patient. Any utilization review of the treatment provided under this  
2 subparagraph may include a review of all services provided during such  
3 outpatient treatment, including all services provided during the first  
4 four weeks of continuous treatment, not to exceed twenty-eight visits,  
5 of such outpatient treatment. Provided, however, the insurer shall only  
6 deny coverage for any portion of the initial four weeks of continuous  
7 treatment, not to exceed twenty-eight visits, for outpatient treatment  
8 on the basis that such treatment was not medically necessary if such  
9 outpatient treatment was contrary to the evidence-based and peer  
10 reviewed clinical review tool utilized by the insurer which is design-  
11 nated by the office of [~~alcoholism and substance abuse~~] addiction  
12 services and supports. An insured shall only have financial responsibil-  
13 ities as set out in subparagraph (J) of this paragraph and shall not  
14 have any financial obligation to the facility for any treatment under  
15 this subparagraph other than any [~~copayment,~~] coinsurance[~~, or deduct-~~  
16 ~~ible~~] otherwise required under the policy.

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

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

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

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

1 patient. Any utilization review of the treatment provided under this  
2 subparagraph may include a review of all services provided during such  
3 outpatient treatment, including all services provided during the first  
4 four weeks of continuous treatment, not to exceed twenty-eight visits,  
5 of such outpatient treatment. Provided, however, the insurer shall only  
6 deny coverage for any portion of the initial four weeks of continuous  
7 treatment, not to exceed twenty-eight visits, for outpatient treatment  
8 on the basis that such treatment was not medically necessary if such  
9 outpatient treatment was contrary to the evidence-based and peer  
10 reviewed clinical review tool utilized by the insurer which is desig-  
11 nated by the office of [~~alcoholism and substance abuse~~] addiction  
12 services and supports. An insured shall only have financial responsibil-  
13 ities as set out in subparagraph (J) of this paragraph and shall not  
14 have any financial obligation to the facility for any treatment under  
15 this subparagraph other than any [~~copayment,~~] coinsurance[~~, or deduct-~~  
16 ~~ible~~] otherwise required under the policy.

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

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

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

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

1 paragraph may include a review of all services provided during such  
2 outpatient treatment, including all services provided during the first  
3 four weeks of continuous treatment, not to exceed twenty-eight visits,  
4 of such outpatient treatment. Provided, however, the corporation shall  
5 only deny coverage for any portion of the initial four weeks of contin-  
6 uous treatment, not to exceed twenty-eight visits, for outpatient treat-  
7 ment on the basis that such treatment was not medically necessary if  
8 such outpatient treatment was contrary to the evidence-based and peer  
9 reviewed clinical review tool utilized by the corporation which is  
10 designated by the office of [~~alcoholism and substance abuse~~] addiction  
11 services and supports. A subscriber shall only have financial responsi-  
12 bilities as set out in paragraph ten of this subsection and shall not  
13 have any financial obligation to the facility for any treatment under  
14 this paragraph other than any [~~copayment,~~] coinsurance[~~, or deductible~~]  
15 otherwise required under the contract.

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

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