

STATE OF NEW YORK

7522--A

2025-2026 Regular Sessions

IN ASSEMBLY

April 1, 2025

Introduced by M. of A. LAVINE, EACHUS, STERN, LUNSFORD, WEPRIN, SANTA-BARBARA -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to prohibiting the application of fail-first or step therapy protocols to coverage for the diagnosis and treatment of serious mental health conditions

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

1 Section 1. Item (ii) of subparagraph (A) and subparagraphs (C) and (E)
2 of paragraph 35 of subsection (i) of section 3216 of the insurance law,
3 item (ii) of subparagraph (A) as amended by chapter 62 of the laws of
4 2023 and subparagraphs (C) and (E) as added by section 8 of subpart A of
5 part BB of chapter 57 of the laws of 2019, are amended to read as
6 follows:
7 (ii) where the policy provides coverage for physician services, such
8 policy shall include benefits for outpatient care provided by a psychia-
9 trist or psychologist licensed to practice in this state, a licensed
10 clinical social worker within the lawful scope of [~~his or her~~] their
11 practice, who is licensed pursuant to article one hundred fifty-four of
12 the education law, a mental health counselor, marriage and family thera-
13 pist, or psychoanalyst licensed pursuant to article one hundred sixty-
14 three of the education law, a nurse practitioner licensed to practice in
15 this state, or a professional corporation or university faculty practice
16 corporation thereof, including outpatient drug coverage. Nothing herein
17 shall be construed to modify or expand the scope of practice of a mental
18 health counselor, marriage and family therapist, or psychoanalyst
19 licensed pursuant to article one hundred sixty-three of the education
20 law. Further, nothing herein shall be construed to create a new mandated
21 health benefit.

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

LBD09475-03-5

1 (C) Coverage under this paragraph shall not apply financial require-
 2 ments or treatment limitations to mental health benefits, including
 3 outpatient drug coverage, that are more restrictive than the predominant
 4 financial requirements and treatment limitations applied to substantial-
 5 ly all medical and surgical benefits covered by the policy. Coverage
 6 under this paragraph, including drug coverage, shall not apply any of
 7 the following to a drug or drugs prescribed for a serious mental health
 8 condition:

9 (i) a fail-first or step therapy protocol, as defined by section four
 10 thousand nine hundred of this chapter; or

11 (ii) a prior authorization requirement, as established pursuant to
 12 subsection (h) of section four thousand nine hundred three of this chap-
 13 ter.

14 (E) For purposes of this paragraph:

15 (i) "financial requirement" means deductible, copayments, coinsurance
 16 and out-of-pocket expenses;

17 (ii) "predominant" means that a financial requirement or treatment
 18 limitation is the most common or frequent of such type of limit or
 19 requirement;

20 (iii) "treatment limitation" means limits on the frequency of treat-
 21 ment, number of visits, days of coverage, or other similar limits on the
 22 scope or duration of treatment and includes nonquantitative treatment
 23 limitations such as: medical management standards limiting or excluding
 24 benefits based on medical necessity, or based on whether the treatment
 25 is experimental or investigational; formulary design for prescription
 26 drugs; network tier design; standards for provider admission to partic-
 27 ipate in a network, including reimbursement rates; methods for determin-
 28 ing usual, customary, and reasonable charges; fail-first or step therapy
 29 protocols; exclusions based on failure to complete a course of treat-
 30 ment; and restrictions based on geographic location, facility type,
 31 provider specialty, and other criteria that limit the scope or duration
 32 of benefits for services provided under the policy; ~~and~~

33 (iv) "mental health condition" means any mental health disorder as
 34 defined in the most recent edition of the diagnostic and statistical
 35 manual of mental disorders or the most recent edition of another gener-
 36 ally recognized independent standard of current medical practice such as
 37 the international classification of diseases[-]; and

38 (v) "serious mental health condition" means the following mental
 39 health disorders as defined in the most recent edition of the diagnostic
 40 and statistical manual of mental disorders:

41 (I) neurodevelopmental disorders;

42 (II) schizophrenia spectrum and other psychotic disorders;

43 (III) bipolar and related disorders;

44 (IV) depressive disorders;

45 (V) anxiety disorders;

46 (VI) obsessive-compulsive and related disorders;

47 (VII) trauma-and-stressor-related disorders;

48 (VIII) neurodegenerative disorders; and

49 (IX) substance-related and addictive disorders.

50 § 1-a. Item (v) of subparagraph (E) of paragraph 35 of subsection (i)
 51 of section 3216 of the insurance law, as added by section one of this
 52 act, is renumbered item (viii).

53 § 2. Item (ii) of subparagraph (A) and subparagraphs (C) and (E) of
 54 paragraph 5 of subsection (l) of section 3221 of the insurance law, item
 55 (ii) of subparagraph (A) as amended by chapter 62 of the laws of 2023
 56 and subparagraphs (C) and (E) as added by section 14 of subpart A of

1 part BB of chapter 57 of the laws of 2019, are amended to read as
2 follows:

3 (ii) where the policy provides coverage for physician services, it
4 shall include benefits for outpatient care provided by a psychiatrist or
5 psychologist licensed to practice in this state, or a mental health
6 counselor, marriage and family therapist, or psychoanalyst licensed
7 pursuant to article one hundred sixty-three of the education law, or a
8 licensed clinical social worker within the lawful scope of [~~his or her~~
9 their] practice, who is licensed pursuant to article one hundred fifty-
10 four of the education law, a nurse practitioner licensed to practice in
11 this state, or a professional corporation or university faculty practice
12 corporation thereof, including outpatient drug coverage. Nothing herein
13 shall be construed to modify or expand the scope of practice of a mental
14 health counselor, marriage and family therapist, or psychoanalyst
15 licensed pursuant to article one hundred sixty-three of the education
16 law. Further, nothing herein shall be construed to create a new mandated
17 health benefit.

18 (C) Coverage under this paragraph shall not apply financial require-
19 ments or treatment limitations to mental health benefits, including
20 outpatient drug coverage, that are more restrictive than the predominant
21 financial requirements and treatment limitations applied to substantial-
22 ly all medical and surgical benefits covered by the policy. Coverage
23 under this paragraph, including drug coverage, shall not apply any of
24 the following to a drug or drugs prescribed for a serious mental health
25 condition:

26 (i) a fail-first or step therapy protocol, as defined by section four
27 thousand nine hundred of this chapter; or

28 (ii) a prior authorization requirement, as established pursuant to
29 subsection (h) of section four thousand nine hundred three of this chap-
30 ter.

31 (E) For purposes of this paragraph:

32 (i) "financial requirement" means deductible, copayments, coinsurance
33 and out-of-pocket expenses;

34 (ii) "predominant" means that a financial requirement or treatment
35 limitation is the most common or frequent of such type of limit or
36 requirement;

37 (iii) "treatment limitation" means limits on the frequency of treat-
38 ment, number of visits, days of coverage, or other similar limits on the
39 scope or duration of treatment and includes nonquantitative treatment
40 limitations such as: medical management standards limiting or excluding
41 benefits based on medical necessity, or based on whether the treatment
42 is experimental or investigational; formulary design for prescription
43 drugs; network tier design; standards for provider admission to partic-
44 ipate in a network, including reimbursement rates; methods for determin-
45 ing usual, customary, and reasonable charges; fail-first or step therapy
46 protocols; exclusions based on failure to complete a course of treat-
47 ment; and restrictions based on geographic location, facility type,
48 provider specialty, and other criteria that limit the scope or duration
49 of benefits for services provided under the policy; [~~and~~]

50 (iv) "mental health condition" means any mental health disorder as
51 defined in the most recent edition of the diagnostic and statistical
52 manual of mental disorders or the most recent edition of another gener-
53 ally recognized independent standard of current medical practice such as
54 the international classification of diseases[~~-~~]; and

1 (v) "serious mental health condition" means the following mental
2 health disorders as defined in the most recent edition of the diagnostic
3 and statistical manual of mental disorders:

4 (I) neurodevelopmental disorders;

5 (II) schizophrenia spectrum and other psychotic disorders;

6 (III) bipolar and related disorders;

7 (IV) depressive disorders;

8 (V) anxiety disorders;

9 (VI) obsessive-compulsive and related disorders;

10 (VII) trauma-and-stressor-related disorders;

11 (VIII) neurodegenerative disorders; and

12 (IX) substance-related and addictive disorders.

13 § 2-a. Item (v) of subparagraph (E) of paragraph 5 of subsection (l)
14 of section 3221 of the insurance law, as added by section two of this
15 act, is renumbered item (viii).

16 § 3. Paragraphs 2, 4 and 6 of subsection (g) of section 4303 of the
17 insurance law, paragraph 2 as amended by chapter 62 of the laws of 2023,
18 and paragraphs 4 and 6 as added by section 23 of subpart A of part BB of
19 chapter 57 of the laws of 2019, are amended to read as follows:

20 (2) where the contract provides coverage for physician services such
21 contract shall provide benefits for outpatient care provided by a
22 psychiatrist or psychologist licensed to practice in this state, or a
23 mental health counselor, marriage and family therapist, or psychoanalyst
24 licensed pursuant to article one hundred sixty-three of the education
25 law, or a licensed clinical social worker within the lawful scope of
26 ~~[his or her]~~ their practice, who is licensed pursuant to article one
27 hundred fifty-four of the education law, a nurse practitioner licensed
28 to practice in this state, or professional corporation or university
29 faculty practice corporation thereof, including outpatient drug
30 coverage. Nothing herein shall be construed to modify or expand the
31 scope of practice of a mental health counselor, marriage and family
32 therapist, or psychoanalyst licensed pursuant to article one hundred
33 sixty-three of the education law. Further, nothing herein shall be
34 construed to create a new mandated health benefit.

35 (4) Coverage under this subsection shall not apply financial require-
36 ments or treatment limitations to mental health benefits, including
37 outpatient drug coverage, that are more restrictive than the predominant
38 financial requirements and treatment limitations applied to substantial-
39 ly all medical and surgical benefits covered by the contract. Coverage
40 under this paragraph, including drug coverage, shall not apply any of
41 the following to a drug or drugs prescribed for a serious mental health
42 condition:

43 (i) a fail-first or step therapy protocol, as defined by section four
44 thousand nine hundred of this chapter; or

45 (ii) a prior authorization requirement, as established pursuant to
46 subsection (h) of section four thousand nine hundred three of this chap-
47 ter.

48 (6) For purposes of this subsection:

49 (A) "financial requirement" means deductible, copayments, coinsurance
50 and out-of-pocket expenses;

51 (B) "predominant" means that a financial requirement or treatment
52 limitation is the most common or frequent of such type of limit or
53 requirement;

54 (C) "treatment limitation" means limits on the frequency of treatment,
55 number of visits, days of coverage, or other similar limits on the scope
56 or duration of treatment and includes nonquantitative treatment limita-

1 tions such as: medical management standards limiting or excluding bene-
2 fits based on medical necessity, or based on whether the treatment is
3 experimental or investigational; formulary design for prescription
4 drugs; network tier design; standards for provider admission to partic-
5 ipate in a network, including reimbursement rates; methods for determin-
6 ing usual, customary, and reasonable charges; fail-first or step therapy
7 protocols; exclusions based on failure to complete a course of treat-
8 ment; and restrictions based on geographic location, facility type,
9 provider specialty, and other criteria that limit the scope or duration
10 of benefits for services provided under the contract; ~~and~~

11 (D) "mental health condition" means any mental health disorder as
12 defined in the most recent edition of the diagnostic and statistical
13 manual of mental disorders or the most recent edition of another gener-
14 ally recognized independent standard of current medical practice such as
15 the international classification of diseases~~[-]~~; ~~and~~

16 (E) "serious mental health condition" means the following mental
17 health disorders as defined in the most recent edition of the diagnostic
18 and statistical manual of mental disorders:

19 (I) neurodevelopmental disorders;

20 (II) schizophrenia spectrum and other psychotic disorders;

21 (III) bipolar and related disorders;

22 (IV) depressive disorders;

23 (V) anxiety disorders;

24 (VI) obsessive-compulsive and related disorders;

25 (VII) trauma-and-stressor-related disorders;

26 (VIII) neurodegenerative disorders; and

27 (IX) substance-related and addictive disorders.

28 § 3-a. Subparagraph (E) of paragraph 6 of subsection (g) of section
29 4303 of the insurance law, as added by section three of this act, is
30 relettered subparagraph (H).

31 § 4. This act shall take effect on the first of January next succeed-
32 ing the date on which it shall have become a law and shall apply to all
33 policies and contracts issued, renewed, modified, altered or amended on
34 or after such date; provided however, that sections one-a, two-a and
35 three-a of this act shall take effect on the same date and in the same
36 manner as subpart A of part II of chapter 57 of the laws of 2023 takes
37 effect.