

# STATE OF NEW YORK

8839

2025-2026 Regular Sessions

## IN ASSEMBLY

June 9, 2025

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

AN ACT to amend the insurance law, in relation to preventing discrimination by insurers based on an individual's mental health or substance use disorder

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

1 Section 1. Section 3216 of the insurance law is amended by adding a  
2 new subsection (n) to read as follows:

3 (n) (1) Every insurer issuing a policy delivered or issued for deliv-  
4 ery in this state that provides coverage for any mental health or  
5 substance use disorder services shall:

6 (A) comply with the requirements of the Paul Wellstone and Pete Domen-  
7 ici Mental Health Parity and Addiction Equity Act of 2008 and its imple-  
8 menting regulations; and

9 (B) not discriminate in its plan benefit design or application against  
10 individuals because of their history of present, or predicted mental  
11 health or substance use disorder.

12 (2) The commissioner of mental health shall promulgate rules and regu-  
13 lations to incorporate the regulatory requirements related to the Mental  
14 Health Parity and Addiction Equity Act at 89 Fed. Reg. 77735 through 89  
15 Fed. Reg. 77751, as found on September twenty-third, two thousand twen-  
16 ty-four, in their entirety, in relation to the provisions of this  
17 subsection.

18 (3) Data collected pursuant to section three hundred forty-three of  
19 this chapter, and any other data requested by the superintendent, may be  
20 used to assess compliance with the requirements of paragraph one of this  
21 subsection.

22 (4) If an insurer provides any benefits for a mental health or  
23 substance use disorder in any classification of benefits, it shall  
24 provide meaningful benefits for such mental health or substance use

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

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1 disorder in every classification in which medical or surgical benefits  
2 are provided. "Core treatments" means standard treatments or courses of  
3 treatment, therapy, service, or intervention indicated by generally  
4 accepted standards of mental health or substance use disorder care. For  
5 purposes of this paragraph, whether the benefits provided are considered  
6 "meaningful benefits" shall be determined in comparison to the benefits  
7 provided for medical conditions and surgical procedures in the classi-  
8 fication and shall require, at a minimum, coverage of benefits for that  
9 condition or disorder in each classification in which the insurer  
10 provides benefits for one or more medical conditions or surgical proce-  
11 dures. An insurer does not provide meaningful benefits under this  
12 subsection unless it provides benefits for core treatments for that  
13 condition or disorder in each classification in which the insurer  
14 provides benefits for core treatments for one or more medical conditions  
15 or surgical procedures. If there is no core treatment for a covered  
16 mental health or substance use disorder with respect to a classifica-  
17 tion, the insurer shall not be required to provide benefits for core  
18 treatments for such condition or disorder in that classification, but  
19 shall provide benefits for such condition or disorder in every classi-  
20 fication in which medical or surgical benefits are provided.

21 (5) For the purposes of determining comparability and stringency for  
22 nonquantitative treatment limitations, an insurer shall not rely upon  
23 discriminatory factors or evidentiary standards to design a nonquantita-  
24 tive treatment limitation to be imposed on mental health or substance  
25 use disorder benefits. A factor or evidentiary standard is discriminato-  
26 ry if the information, evidence, sources, or standards on which the  
27 factor or evidentiary standard are based are biased or not objective in  
28 a manner that discriminates against mental health or substance use  
29 disorder benefits as compared to medical or surgical benefits.

30 (6) A nonquantitative treatment limitation applicable to mental health  
31 or substance use disorder benefits in a classification shall not, in  
32 operation, be more restrictive than the predominant nonquantitative  
33 treatment limitation applied to substantially all medical and surgical  
34 benefits in the classification. To test compliance with this paragraph,  
35 an insurer shall collect and evaluate relevant data in a manner reason-  
36 ably designed to assess the impact of the nonquantitative treatment  
37 limitation on relevant outcomes related to access to mental health or  
38 substance use disorder benefits and medical and surgical benefits and  
39 carefully consider the impact as part of the plan's evaluation. As part  
40 of its evaluation, the insurer may not disregard relevant outcomes data  
41 that it knows or reasonably should know suggest that a nonquantitative  
42 treatment limitation is associated with material differences in access  
43 to mental health or substance use disorder benefits as compared to  
44 medical and surgical benefits. To the extent the relevant data evaluated  
45 suggests that the nonquantitative treatment limitation contributes to  
46 material differences in access to mental health or substance use disor-  
47 der benefits as compared to medical or surgical benefits in a classi-  
48 fication, such differences shall be considered a strong indicator of a  
49 noncompliant nonquantitative treatment limitation. Where the relevant  
50 data suggest that the nonquantitative treatment limitation contributes  
51 to material differences in access to mental health or substance use  
52 disorder benefits as compared to medical and surgical benefits in a  
53 classification, the insurer shall take reasonable action, as necessary,  
54 to address the material differences to ensure compliance, in operation,  
55 and shall document the actions that have been or are being taken by the  
56 insurer to address material differences in access to mental health or

1 substance use disorder benefits, as compared to medical and surgical  
2 benefits.

3 (7) An insurer providing coverage for mental health or substance use  
4 disorder benefits shall submit an annual report starting on January  
5 first, two thousand twenty-six and annually thereafter, that contains  
6 the information described in 29 USC 1185a(a)(8)(A) and 42 USC  
7 300gg-26(a)(8)(A). The report required shall be posted on a publicly  
8 available website whose web address is prominently displayed in plan  
9 informational and marketing materials.

10 (8) If a health care provider, a current or prospective enrollee or an  
11 employer requests one or more nonquantitative treatment limitation pari-  
12 ty compliance analyses that the insurer is required to have completed  
13 pursuant to 29 U.S.C. Sec. 1185a or 42 U.S.C. Sec. 300gg-26, the insurer  
14 shall provide the requested analyses free of charge within thirty days.  
15 The insurer shall include in each of their health plan policies and  
16 mental health and substance use disorder provider contracts a notifica-  
17 tion of the right to request nonquantitative treatment limitation  
18 analyses free of charge. The notification shall include information on  
19 how to request the analyses. In addition to any other action authorized  
20 under this chapter, failure by an insurer to provide the full requested  
21 analyses shall result in a penalty of one hundred dollars per day, which  
22 shall be collected by the superintendent and remitted to the requestor.  
23 If the request under this paragraph is made in connection with an  
24 adverse benefit determination and the insurer fails to provide the  
25 required analyses as required by this paragraph, the adverse benefit  
26 determination shall be automatically reversed.

27 (9) The superintendent may adopt rules or guidance as necessary to  
28 implement and administer the provisions of paragraphs one through seven  
29 of this subsection, and such rules or guidance shall have the force of  
30 law and shall include:

31 (A) specifying data testing requirements to determine plan design and  
32 application parity and nondiscrimination compliance using outcomes data;

33 (B) setting standard definitions; and

34 (C) establishing specific timelines for insurer compliance with the  
35 requirements of this subsection, including the effect of an insurer's  
36 lack of sufficient comparative analyses or other required information  
37 necessary to demonstrate compliance.

38 § 2. Section 3221 of the insurance law is amended by adding a new  
39 subsection (v) to read as follows:

40 (v) (1) Every insurer issuing a policy delivered or issued for deliv-  
41 ery in this state that provides coverage for any mental health or  
42 substance use disorder services shall:

43 (A) comply with the requirements of the Paul Wellstone and Pete Domen-  
44 ici Mental Health Parity and Addiction Equity Act of 2008 and its imple-  
45 menting regulations; and

46 (B) not discriminate in its plan benefit design or application against  
47 individuals because of their history of present, or predicted mental  
48 health or substance use disorder.

49 (2) The commissioner of mental health shall promulgate rules and regu-  
50 lations to incorporate the regulatory requirements related to the Mental  
51 Health Parity and Addiction Equity Act at 89 Fed. Reg. 77735 through 89  
52 Fed. Reg. 77751, as found on September twenty-third, two thousand twen-  
53 ty-four, in their entirety, in relation to the provisions of this  
54 subsection.

55 (3) Data collected pursuant to section three hundred forty-three of  
56 this chapter, and any other data requested by the superintendent, may be

1 used to assess compliance with the requirements of paragraph one of this  
2 subsection.

3 (4) If an insurer provides any benefits for a mental health or  
4 substance use disorder in any classification of benefits, it shall  
5 provide meaningful benefits for such mental health or substance use  
6 disorder in every classification in which medical or surgical benefits  
7 are provided. "Core treatments" means standard treatments or courses of  
8 treatment, therapy, service, or intervention indicated by generally  
9 accepted standards of mental health or substance use disorder care. For  
10 purposes of this paragraph, whether the benefits provided are considered  
11 "meaningful benefits" shall be determined in comparison to the benefits  
12 provided for medical conditions and surgical procedures in the classi-  
13 fication and shall require, at a minimum, coverage of benefits for that  
14 condition or disorder in each classification in which the insurer  
15 provides benefits for one or more medical conditions or surgical proce-  
16 dures. An insurer does not provide meaningful benefits under this  
17 subsection unless it provides benefits for core treatments for that  
18 condition or disorder in each classification in which the insurer  
19 provides benefits for core treatments for one or more medical conditions  
20 or surgical procedures. If there is no core treatment for a covered  
21 mental health or substance use disorder with respect to a classifica-  
22 tion, the insurer shall not be required to provide benefits for core  
23 treatments for such condition or disorder in that classification, but  
24 shall provide benefits for such condition or disorder in every classi-  
25 fication in which medical or surgical benefits are provided.

26 (5) For the purposes of determining comparability and stringency for  
27 nonquantitative treatment limitations, an insurer shall not rely upon  
28 discriminatory factors or evidentiary standards to design a nonquantita-  
29 tive treatment limitation to be imposed on mental health or substance  
30 use disorder benefits. A factor or evidentiary standard is discriminato-  
31 ry if the information, evidence, sources, or standards on which the  
32 factor or evidentiary standard are based are biased or not objective in  
33 a manner that discriminates against mental health or substance use  
34 disorder benefits as compared to medical or surgical benefits.

35 (6) A nonquantitative treatment limitation applicable to mental health  
36 or substance use disorder benefits in a classification shall not, in  
37 operation, be more restrictive than the predominant nonquantitative  
38 treatment limitation applied to substantially all medical and surgical  
39 benefits in the classification. To test compliance with this paragraph,  
40 an insurer shall collect and evaluate relevant data in a manner reason-  
41 ably designed to assess the impact of the nonquantitative treatment  
42 limitation on relevant outcomes related to access to mental health or  
43 substance use disorder benefits and medical and surgical benefits and  
44 carefully consider the impact as part of the plan's evaluation. As part  
45 of its evaluation, the insurer may not disregard relevant outcomes data  
46 that it knows or reasonably should know suggest that a nonquantitative  
47 treatment limitation is associated with material differences in access  
48 to mental health or substance use disorder benefits as compared to  
49 medical and surgical benefits. To the extent the relevant data evaluated  
50 suggests that the nonquantitative treatment limitation contributes to  
51 material differences in access to mental health or substance use disor-  
52 der benefits as compared to medical or surgical benefits in a classi-  
53 fication, such differences shall be considered a strong indicator of a  
54 noncompliant nonquantitative treatment limitation. Where the relevant  
55 data suggest that the nonquantitative treatment limitation contributes  
56 to material differences in access to mental health or substance use

1 disorder benefits as compared to medical and surgical benefits in a  
2 classification, the insurer shall take reasonable action, as necessary,  
3 to address the material differences to ensure compliance, in operation,  
4 and shall document the actions that have been or are being taken by the  
5 insurer to address material differences in access to mental health or  
6 substance use disorder benefits, as compared to medical and surgical  
7 benefits.

8 (7) An insurer providing coverage for mental health or substance use  
9 disorder benefits shall submit an annual report starting on January  
10 first, two thousand twenty-six and annually thereafter, that contains  
11 the information described in 29 USC 1185a(a)(8)(A) and 42 USC  
12 300gg-26(a)(8)(A). The report required shall be posted on a publicly  
13 available website whose web address is prominently displayed in plan  
14 informational and marketing materials.

15 (8) If a health care provider, a current or prospective enrollee or an  
16 employer requests one or more nonquantitative treatment limitation pari-  
17 ty compliance analyses that the insurer is required to have completed  
18 pursuant to 29 U.S.C. Sec. 1185a or 42 U.S.C. Sec. 300gg-26, the insurer  
19 shall provide the requested analyses free of charge within thirty days.  
20 The insurer shall include in each of their health plan policies and  
21 mental health and substance use disorder provider contracts a notifica-  
22 tion of the right to request nonquantitative treatment limitation  
23 analyses free of charge. The notification shall include information on  
24 how to request the analyses. In addition to any other action authorized  
25 under this chapter, failure by an insurer to provide the full requested  
26 analyses shall result in a penalty of one hundred dollars per day, which  
27 shall be collected by the superintendent and remitted to the requestor.  
28 If the request under this paragraph is made in connection with an  
29 adverse benefit determination and the insurer fails to provide the  
30 required analyses as required by this paragraph, the adverse benefit  
31 determination shall be automatically reversed.

32 (9) The superintendent may adopt rules or guidance as necessary to  
33 implement and administer the provisions of paragraphs one through seven  
34 of this subsection, and such rules or guidance shall have the force of  
35 law and shall include:

36 (A) specifying data testing requirements to determine plan design and  
37 application parity and nondiscrimination compliance using outcomes data;

38 (B) setting standard definitions; and

39 (C) establishing specific timelines for insurer compliance with the  
40 requirements of this subsection, including the effect of an insurer's  
41 lack of sufficient comparative analyses or other required information  
42 necessary to demonstrate compliance.

43 § 3. Section 4303 of the insurance law is amended by adding a new  
44 subsection (ww) to read as follows:

45 (ww) (1) Every corporation issuing a contract delivered or issued for  
46 delivery in this state that provides coverage for any mental health or  
47 substance use disorder services shall:

48 (A) comply with the requirements of the Paul Wellstone and Pete Domen-  
49 ici Mental Health Parity and Addiction Equity Act of 2008 and its imple-  
50 menting regulations; and

51 (B) not discriminate in its plan benefit design or application against  
52 individuals because of their history of present, or predicted mental  
53 health or substance use disorder.

54 (2) The commissioner of mental health shall promulgate rules and regu-  
55 lations to incorporate the regulatory requirements related to the Mental  
56 Health Parity and Addiction Equity Act at 89 Fed. Reg. 77735 through 89

1 Fed. Reg. 77751, as found on September twenty-third, two thousand twenty-  
2 four, in their entirety, in relation to the provisions of this  
3 subsection.

4 (3) Data collected pursuant to section three hundred forty-three of  
5 this chapter, and any other data requested by the superintendent, may be  
6 used to assess compliance with the requirements of paragraph one of this  
7 subsection.

8 (4) If an insurer provides any benefits for a mental health or  
9 substance use disorder in any classification of benefits, it shall  
10 provide meaningful benefits for such mental health or substance use  
11 disorder in every classification in which medical or surgical benefits  
12 are provided. "Core treatments" means standard treatments or courses of  
13 treatment, therapy, service, or intervention indicated by generally  
14 accepted standards of mental health or substance use disorder care. For  
15 purposes of this paragraph, whether the benefits provided are considered  
16 "meaningful benefits" shall be determined in comparison to the benefits  
17 provided for medical conditions and surgical procedures in the classi-  
18 fication and shall require, at a minimum, coverage of benefits for that  
19 condition or disorder in each classification in which the insurer  
20 provides benefits for one or more medical conditions or surgical proce-  
21 dures. An insurer does not provide meaningful benefits under this  
22 subsection unless it provides benefits for core treatments for that  
23 condition or disorder in each classification in which the insurer  
24 provides benefits for core treatments for one or more medical conditions  
25 or surgical procedures. If there is no core treatment for a covered  
26 mental health or substance use disorder with respect to a classifica-  
27 tion, the insurer shall not be required to provide benefits for core  
28 treatments for such condition or disorder in that classification, but  
29 shall provide benefits for such condition or disorder in every classi-  
30 fication in which medical or surgical benefits are provided.

31 (5) For the purposes of determining comparability and stringency for  
32 nonquantitative treatment limitations, an insurer shall not rely upon  
33 discriminatory factors or evidentiary standards to design a nonquantita-  
34 tive treatment limitation to be imposed on mental health or substance  
35 use disorder benefits. A factor or evidentiary standard is discriminato-  
36 ry if the information, evidence, sources, or standards on which the  
37 factor or evidentiary standard are based are biased or not objective in  
38 a manner that discriminates against mental health or substance use  
39 disorder benefits as compared to medical or surgical benefits.

40 (6) A nonquantitative treatment limitation applicable to mental health  
41 or substance use disorder benefits in a classification shall not, in  
42 operation, be more restrictive than the predominant nonquantitative  
43 treatment limitation applied to substantially all medical and surgical  
44 benefits in the classification. To test compliance with this paragraph,  
45 an insurer shall collect and evaluate relevant data in a manner reason-  
46 ably designed to assess the impact of the nonquantitative treatment  
47 limitation on relevant outcomes related to access to mental health or  
48 substance use disorder benefits and medical and surgical benefits and  
49 carefully consider the impact as part of the plan's evaluation. As part  
50 of its evaluation, the insurer may not disregard relevant outcomes data  
51 that it knows or reasonably should know suggest that a nonquantitative  
52 treatment limitation is associated with material differences in access  
53 to mental health or substance use disorder benefits as compared to  
54 medical and surgical benefits. To the extent the relevant data evaluated  
55 suggests that the nonquantitative treatment limitation contributes to  
56 material differences in access to mental health or substance use disor-

1 der benefits as compared to medical or surgical benefits in a classi-  
2 fication, such differences shall be considered a strong indicator of a  
3 noncompliant nonquantitative treatment limitation. Where the relevant  
4 data suggest that the nonquantitative treatment limitation contributes  
5 to material differences in access to mental health or substance use  
6 disorder benefits as compared to medical and surgical benefits in a  
7 classification, the insurer shall take reasonable action, as necessary,  
8 to address the material differences to ensure compliance, in operation,  
9 and shall document the actions that have been or are being taken by the  
10 insurer to address material differences in access to mental health or  
11 substance use disorder benefits, as compared to medical and surgical  
12 benefits.

13 (7) An insurer providing coverage for mental health or substance use  
14 disorder benefits shall submit an annual report starting on January  
15 first, two thousand twenty-six and annually thereafter, that contains  
16 the information described in 29 USC 1185a(a)(8)(A) and 42 USC  
17 300gg-26(a)(8)(A). The report required shall be posted on a publicly  
18 available website whose web address is prominently displayed in plan  
19 informational and marketing materials.

20 (8) If a health care provider, a current or prospective enrollee or an  
21 employer requests one or more nonquantitative treatment limitation pari-  
22 ty compliance analyses that the insurer is required to have completed  
23 pursuant to 29 U.S.C. Sec. 1185a or 42 U.S.C. Sec. 300gg-26, the insurer  
24 shall provide the requested analyses free of charge within thirty days.  
25 The insurer shall include in each of their health plan policies and  
26 mental health and substance use disorder provider contracts a notifica-  
27 tion of the right to request nonquantitative treatment limitation  
28 analyses free of charge. The notification shall include information on  
29 how to request the analyses. In addition to any other action authorized  
30 under this chapter, failure by an insurer to provide the full requested  
31 analyses shall result in a penalty of one hundred dollars per day, which  
32 shall be collected by the superintendent and remitted to the requestor.  
33 If the request under this paragraph is made in connection with an  
34 adverse benefit determination and the insurer fails to provide the  
35 required analyses as required by this paragraph, the adverse benefit  
36 determination shall be automatically reversed.

37 (9) The superintendent may adopt rules or guidance as necessary to  
38 implement and administer the provisions of paragraphs one through seven  
39 of this subsection, and such rules or guidance shall have the force of  
40 law and shall include:

41 (A) specifying data testing requirements to determine plan design and  
42 application parity and nondiscrimination compliance using outcomes data;

43 (B) setting standard definitions; and

44 (C) establishing specific timelines for insurer compliance with the  
45 requirements of this subsection, including the effect of an insurer's  
46 lack of sufficient comparative analyses or other required information  
47 necessary to demonstrate compliance.

48 § 4. This act shall take effect immediately.