

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.