

# STATE OF NEW YORK

8426--A

2025-2026 Regular Sessions

## IN SENATE

June 10, 2025

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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.

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

LBD13343-02-5

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

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

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

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

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

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

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

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

36 (B) setting standard definitions; and

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

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

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

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

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

52 (2) The commissioner of mental health shall promulgate rules and regu-  
53 lations to incorporate the regulatory requirements related to the Mental  
54 Health Parity and Addiction Equity Act at 89 Fed. Reg. 77735 through 89  
55 Fed. Reg. 77751, as found on September twenty-third, two thousand twen-

1 ty-four, in their entirety, in relation to the provisions of this  
2 subsection.

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

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

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

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

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

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

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

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

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

42 (B) setting standard definitions; and

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

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

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

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

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

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

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

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

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

46 (6) A nonquantitative treatment limitation applicable to mental health  
47 or substance use disorder benefits in a classification shall not, in  
48 operation, be more restrictive than the predominant nonquantitative  
49 treatment limitation applied to substantially all medical and surgical  
50 benefits in the classification. To test compliance with this paragraph,  
51 an insurer shall collect and evaluate relevant data in a manner reason-  
52 ably designed to assess the impact of the nonquantitative treatment  
53 limitation on relevant outcomes related to access to mental health or  
54 substance use disorder benefits and medical and surgical benefits and  
55 carefully consider the impact as part of the plan's evaluation. As part  
56 of its evaluation, the insurer may not disregard relevant outcomes data

1 that it knows or reasonably should know suggest that a nonquantitative  
2 treatment limitation is associated with material differences in access  
3 to mental health or substance use disorder benefits as compared to  
4 medical and surgical benefits. To the extent the relevant data evaluated  
5 suggests that the nonquantitative treatment limitation contributes to  
6 material differences in access to mental health or substance use disorder  
7 benefits as compared to medical or surgical benefits in a classi-  
8 fication, such differences shall be considered a strong indicator of a  
9 noncompliant nonquantitative treatment limitation. Where the relevant  
10 data suggest that the nonquantitative treatment limitation contributes  
11 to material differences in access to mental health or substance use  
12 disorder benefits as compared to medical and surgical benefits in a  
13 classification, the insurer shall take reasonable action, as necessary,  
14 to address the material differences to ensure compliance, in operation,  
15 and shall document the actions that have been or are being taken by the  
16 insurer to address material differences in access to mental health or  
17 substance use disorder benefits, as compared to medical and surgical  
18 benefits.

19 (7) An insurer providing coverage for mental health or substance use  
20 disorder benefits shall submit an annual report starting on January  
21 first, two thousand twenty-six and annually thereafter, that contains  
22 the information described in 29 USC 1185a(a)(8)(A) and 42 USC  
23 300gg-26(a)(8)(A). The report required shall be posted on a publicly  
24 available website whose web address is prominently displayed in plan  
25 informational and marketing materials.

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

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

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

49 (B) setting standard definitions; and

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

54 § 4. This act shall take effect immediately.