

[Second Reprint]  
**ASSEMBLY, No. 4498**

**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

INTRODUCED JANUARY 19, 2017

**Sponsored by:**

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**SYNOPSIS**

Expands health insurance coverage for behavioral health services and autism and enhances enforcement and oversight of mental health parity laws.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on May 22, 2017.

(Sponsorship Updated As Of: 6/9/2017)

1 AN ACT concerning health insurance coverage for behavioral health  
2 care services and amending various parts of the statutory law and  
3 supplementing P.L.1997, c.192 (C.26:2S-1 et al.).  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. Section 1 of P.L.1999, c.106 (C.17:48-6v) is amended to  
9 read as follows:

10 1. a. (1) Every individual and group hospital service  
11 corporation contract that provides hospital or medical expense  
12 benefits and is delivered, issued, executed or renewed in this State  
13 pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), or approved for  
14 issuance or renewal in this State by the Commissioner of Banking  
15 and Insurance, on or after the effective date of this act shall provide  
16 coverage for **【biologically-based mental illness】** medically  
17 necessary behavioral health care services <sup>1</sup>and autism<sup>1</sup> under the  
18 same terms and conditions as provided for any other sickness under  
19 the contract and shall meet the requirements of the federal Paul  
20 Wellstone and Pete Domenici Mental Health Parity and Addiction  
21 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,  
22 and federal guidance or regulations issued under that act, including  
23 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).  
24 **【"Biologically-based mental illness"】**

25 (2) As used in this section:

26 "Behavioral health care services" means **【a mental or nervous**  
27 condition that is caused by a biological disorder of the brain and  
28 results in a clinically significant or psychological syndrome or  
29 pattern that substantially limits the functioning of the person with  
30 the illness, including but not limited to, schizophrenia,  
31 schizoaffective disorder, major depressive disorder, bipolar  
32 disorder, paranoia and other psychotic disorders, obsessive-  
33 compulsive disorder, panic disorder and pervasive developmental  
34 disorder or autism】 procedures or services rendered by a health care  
35 provider or health care facility for the treatment of mental illness,  
36 emotional disorders, or drug or alcohol abuse.

37 <sup>2</sup>"Health care facility" means the same as defined in section 2 of  
38 P.L.1971, c.136 (C.26:2H-2).

39 "Health care provider" means a health care professional licensed  
40 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

41 "Medically necessary" means health care services and supplies  
42 provided by a health care provider appropriate to the evaluation and  
43 treatment of disease, condition, illness or injury, consistent with the  
44 applicable standard of care, including the evaluation of

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AFI committee amendments adopted January 30, 2017.

<sup>2</sup>Assembly floor amendments adopted May 22, 2017.

1 experimental or investigational services, procedures, drugs or  
2 devices.

3 "Same terms and conditions" means that the hospital service  
4 corporation cannot apply different copayments, deductibles or  
5 benefit limits to **【biologically-based mental health】** behavioral  
6 health care services <sup>1</sup>and autism<sup>1</sup> benefits than those applied to  
7 other medical or surgical benefits.

8 b. **【Nothing in this section shall be construed to change the**  
9 **manner in which a hospital service corporation determines:**

10 (1) whether a mental health care service meets the medical  
11 necessity standard as established by the hospital service  
12 corporation; or

13 (2) which providers shall be entitled to reimbursement for  
14 providing services for mental illness under the contract. **】** (Deleted  
15 by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_)(pending before the Legislature as  
16 this bill)

17 c. The provisions of this section shall apply to all contracts in  
18 which the hospital service corporation has reserved the right to  
19 change the premium.

20 (cf: P.L.1999, c.106, s.1)

21

22 2. Section 2 of P.L.1999, c.106 (C.17:48A-7u) is amended to  
23 read as follows:

24 2. a. (1) Every individual and group medical service  
25 corporation contract that provides hospital or medical expense  
26 benefits that is delivered, issued, executed or renewed in this State  
27 pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.), or approved for  
28 issuance or renewal in this State by the Commissioner of Banking  
29 and Insurance, on or after the effective date of this act shall provide  
30 coverage for **【biologically-based mental illness】** medically  
31 necessary behavioral health care services <sup>1</sup>and autism<sup>1</sup> under the  
32 same terms and conditions as provided for any other sickness under  
33 the contract and shall meet the requirements of the federal Paul  
34 Wellstone and Pete Domenici Mental Health Parity and Addiction  
35 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,  
36 and federal guidance or regulations issued under that act, including  
37 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).

38 **【"Biologically-based mental illness"】**

39 (2) As used in this section:

40 "Behavioral health care services" means **【a mental or nervous**  
41 **condition that is caused by a biological disorder of the brain and**  
42 **results in a clinically significant or psychological syndrome or**  
43 **pattern that substantially limits the functioning of the person with**  
44 **the illness, including but not limited to, schizophrenia,**  
45 **schizoaffective disorder, major depressive disorder, bipolar**  
46 **disorder, paranoia and other psychotic disorders, obsessive-**  
47 **compulsive disorder, panic disorder and pervasive developmental**  
48 **disorder or autism】** procedures or services rendered by a health care

1 provider or health care facility for the treatment of mental illness,  
2 emotional disorders, or drug or alcohol abuse.

3 <sup>2</sup>“Health care facility” means the same as defined in section 2 of  
4 P.L.1971, c.136 (C.26:2H-2).

5 “Health care provider” means a health care professional licensed  
6 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

7 “Medically necessary” means health care services and supplies  
8 provided by a health care provider appropriate to the evaluation and  
9 treatment of disease, condition, illness or injury, consistent with the  
10 applicable standard of care, including the evaluation of  
11 experimental or investigational services, procedures, drugs or  
12 devices.

13 "Same terms and conditions" means that the medical service  
14 corporation cannot apply different copayments, deductibles or  
15 benefit limits to **【biologically-based mental health】** behavioral  
16 health care services <sup>1</sup>and autism<sup>1</sup> benefits than those applied to  
17 other medical or surgical benefits.

18 b. **【Nothing in this section shall be construed to change the**  
19 **manner in which a medical service corporation determines:**

20 (1) whether a mental health care service meets the medical  
21 necessity standard as established by the medical service  
22 corporation; or

23 (2) which providers shall be entitled to reimbursement for  
24 providing services for mental illness under the contract. **】** (Deleted  
25 by amendment, P.L. , c. )(pending before the Legislature as  
26 this bill)

27 c. The provisions of this section shall apply to all contracts in  
28 which the medical service corporation has reserved the right to  
29 change the premium.

30 (cf: P.L.1999, c.106, s.2)

31

32 3. Section 3 of P.L.1999, c.106 (C.17:48E-35.20) is amended  
33 to read as follows:

34 3. a. (1) Every individual and group health service corporation  
35 contract that provides hospital or medical expense benefits and is  
36 delivered, issued, executed or renewed in this State pursuant to  
37 P.L.1985, c.236 (C.17:48E-1 et seq.), or approved for issuance or  
38 renewal in this State by the Commissioner of Banking and  
39 Insurance, on or after the effective date of this act shall provide  
40 coverage for **【biologically-based mental illness】** medically  
41 necessary behavioral health care services <sup>1</sup>and autism<sup>1</sup> under the  
42 same terms and conditions as provided for any other sickness under  
43 the contract and shall meet the requirements of the federal Paul  
44 Wellstone and Pete Domenici Mental Health Parity and Addiction  
45 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,  
46 and federal guidance or regulations issued under that act, including  
47 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).

48 **【"Biologically-based mental illness"】**

1       (2) As used in this section:

2       “Behavioral health care services” means [a mental or nervous  
 3 condition that is caused by a biological disorder of the brain and  
 4 results in a clinically significant or psychological syndrome or  
 5 pattern that substantially limits the functioning of the person with  
 6 the illness, including but not limited to, schizophrenia,  
 7 schizoaffective disorder, major depressive disorder, bipolar  
 8 disorder, paranoia and other psychotic disorders, obsessive-  
 9 compulsive disorder, panic disorder and pervasive developmental  
 10 disorder or autism] procedures or services rendered by a health care  
 11 provider or health care facility for the treatment of mental illness,  
 12 emotional disorders, or drug or alcohol abuse.

13       <sup>2</sup>“Health care facility” means the same as defined in section 2 of  
 14 P.L.1971, c.136 (C.26:2H-2).

15       “Health care provider” means a health care professional licensed  
 16 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

17       “Medically necessary” means health care services and supplies  
 18 provided by a health care provider appropriate to the evaluation and  
 19 treatment of disease, condition, illness or injury, consistent with the  
 20 applicable standard of care, including the evaluation of  
 21 experimental or investigational services, procedures, drugs or  
 22 devices.

23       "Same terms and conditions" means that the health service  
 24 corporation cannot apply different copayments, deductibles or  
 25 benefit limits to **[biologically-based mental health]** behavioral  
 26 health care services <sup>1</sup>and autism<sup>1</sup> benefits than those applied to  
 27 other medical or surgical benefits.

28       b. **[Nothing in this section shall be construed to change the**  
 29 **manner in which the health service corporation determines:**

30       (1) whether a mental health care service meets the medical  
 31 necessity standard as established by the health service corporation;  
 32 or

33       (2) which providers shall be entitled to reimbursement for  
 34 providing services for mental illness under the contract. **]** (Deleted  
 35 by amendment, P.L. , c. ) (pending before the Legislature as  
 36 this bill)

37       c. The provisions of this section shall apply to all contracts in  
 38 which the health service corporation has reserved the right to  
 39 change the premium.

40 (cf: P.L.1999, c.106, s.3)

41

42       4. Section 4 of P.L.1999, c.106 (C.17B:26-2.1s) is amended to  
 43 read as follows:

44       4. a. (1) Every individual health insurance policy that  
 45 provides hospital or medical expense benefits and is delivered,  
 46 issued, executed or renewed in this State pursuant to chapter 26 of  
 47 Title 17B of the New Jersey Statutes, or approved for issuance or  
 48 renewal in this State by the Commissioner of Banking and

1 Insurance, on or after the effective date of this act shall provide  
2 coverage for **【biologically-based mental illness】** medically  
3 necessary behavioral health care services <sup>1</sup>and autism<sup>1</sup> under the  
4 same terms and conditions as provided for any other sickness under  
5 the contract and shall meet the requirements of the federal Paul  
6 Wellstone and Pete Domenici Mental Health Parity and Addiction  
7 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,  
8 and federal guidance or regulations issued under that act, including  
9 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).  
10 **【"Biologically-based mental illness"】**

11 (2) As used in this section:

12 "Behavioral health care services" means **【a mental or nervous**  
13 condition that is caused by a biological disorder of the brain and  
14 results in a clinically significant or psychological syndrome or  
15 pattern that substantially limits the functioning of the person with  
16 the illness, including but not limited to, schizophrenia,  
17 schizoaffective disorder, major depressive disorder, bipolar  
18 disorder, paranoia and other psychotic disorders, obsessive-  
19 compulsive disorder, panic disorder and pervasive developmental  
20 disorder or autism】 procedures or services rendered by a health care  
21 provider or health care facility for the treatment of mental illness,  
22 emotional disorders, or drug or alcohol abuse.

23 <sup>2</sup>"Health care facility" means the same as defined in section 2 of  
24 P.L.1971, c.136 (C.26:2H-2).

25 "Health care provider" means a health care professional licensed  
26 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

27 "Medically necessary" means health care services and supplies  
28 provided by a health care provider appropriate to the evaluation and  
29 treatment of disease, condition, illness or injury, consistent with the  
30 applicable standard of care, including the evaluation of  
31 experimental or investigational services, procedures, drugs or  
32 devices.

33 "Same terms and conditions" means that the insurer cannot apply  
34 different copayments, deductibles or benefit limits to **【biologically-**  
35 **based mental health】** behavioral health care services <sup>1</sup>and autism<sup>1</sup>  
36 benefits than those applied to other medical or surgical benefits.

37 b. **【Nothing in this section shall be construed to change the**  
38 **manner in which the insurer determines:**

39 (1) whether a mental health care service meets the medical  
40 necessity standard as established by the insurer; or

41 (2) which providers shall be entitled to reimbursement for  
42 providing services for mental illness under the policy. **】** (Deleted by  
43 amendment, P.L. , c. ) (pending before the Legislature as this  
44 bill)

45 c. The provisions of this section shall apply to all policies in  
46 which the insurer has reserved the right to change the premium.

47 (cf: P.L.1999, c.106, s.4)

1       5. Section 5 of P.L.1999, c.106 (C.17B:27-46.1v) is amended  
2 to read as follows:

3       5. a. (1) Every group health insurance policy that provides  
4 hospital or medical expense benefits and is delivered, issued,  
5 executed or renewed in this State pursuant to chapter 27 of Title  
6 17B of the New Jersey Statutes, or approved for issuance or renewal  
7 in this State by the Commissioner of Banking and Insurance, on or  
8 after the effective date of this act shall provide benefits for  
9 **【biologically-based mental illness】** medically necessary behavioral  
10 health care services <sup>1</sup>and autism<sup>1</sup> under the same terms and  
11 conditions as provided for any other sickness under the policy and  
12 shall meet the requirements of the federal Paul Wellstone and Pete  
13 Domenici Mental Health Parity and Addiction Equity Act of 2008,  
14 42 U.S.C. 18031(j), and any amendments to, and federal guidance  
15 or regulations issued under that act, including 45 C.F.R. Parts 146  
16 and 147 and 45 C.F.R. 156.115(a)(3). 【"Biologically-based mental  
17 illness"】

18       (2) As used in this section:

19       "Behavioral health care services" means 【a mental or nervous  
20 condition that is caused by a biological disorder of the brain and  
21 results in a clinically significant or psychological syndrome or  
22 pattern that substantially limits the functioning of the person with  
23 the illness, including but not limited to, schizophrenia,  
24 schizoaffective disorder, major depressive disorder, bipolar  
25 disorder, paranoia and other psychotic disorders, obsessive-  
26 compulsive disorder, panic disorder and pervasive developmental  
27 disorder or autism】 procedures or services rendered by a health care  
28 provider or health care facility for the treatment of mental illness,  
29 emotional disorders, or drug or alcohol abuse.

30       <sup>2</sup>"Health care facility" means the same as defined in section 2 of  
31 P.L.1971, c.136 (C.26:2H-2).

32       "Health care provider" means a health care professional licensed  
33 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

34       "Medically necessary" means health care services and supplies  
35 provided by a health care provider appropriate to the evaluation and  
36 treatment of disease, condition, illness or injury, consistent with the  
37 applicable standard of care, including the evaluation of  
38 experimental or investigational services, procedures, drugs or  
39 devices.

40       "Same terms and conditions" means that the insurer cannot apply  
41 different copayments, deductibles or benefit limits to **【biologically-**  
42 **based mental health】** behavioral health care services <sup>1</sup>and autism<sup>1</sup>  
43 benefits than those applied to other medical or surgical benefits.

44       b. **【Nothing in this section shall be construed to change the**  
45 **manner in which the insurer determines:**

46       (1) whether a mental health care service meets the medical  
47 necessity standard as established by the insurer; or

1 (2) which providers shall be entitled to reimbursement for  
2 providing services for mental illness under the policy.】 (Deleted by  
3 amendment, P.L. , c. ) (pending before the Legislature as this  
4 bill)

5 c. The provisions of this section shall apply to all policies in  
6 which the insurer has reserved the right to change the premium.  
7 (cf: P.L.1999, c.106, s.5)

8  
9 6. Section 6 of P.L.1999, c.106 (C.17B:27A-7.5) is amended to  
10 read as follows:

11 6. a. (1) Every individual health benefits plan that provides  
12 hospital or medical expense benefits and is delivered, issued,  
13 executed or renewed in this State pursuant to P.L.1992, c.161  
14 (C.17B:27A-2 et seq.) or approved for issuance or renewal in this  
15 State on or after the effective date of this act shall provide benefits  
16 for **【biologically-based mental illness】** medically necessary  
17 behavioral health care services <sup>1</sup>and autism<sup>1</sup> under the same terms  
18 and conditions as provided for any other sickness under the health  
19 benefits plan and shall meet the requirements of the federal Paul  
20 Wellstone and Pete Domenici Mental Health Parity and Addiction  
21 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,  
22 and federal guidance or regulations issued under that act, including  
23 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).  
24 **【"Biologically-based mental illness"】**

25 (2) As used in this section:

26 "Behavioral health care services" means 【a mental or nervous  
27 condition that is caused by a biological disorder of the brain and  
28 results in a clinically significant or psychological syndrome or  
29 pattern that substantially limits the functioning of the person with  
30 the illness, including but not limited to, schizophrenia,  
31 schizoaffective disorder, major depressive disorder, bipolar  
32 disorder, paranoia and other psychotic disorders, obsessive-  
33 compulsive disorder, panic disorder and pervasive developmental  
34 disorder or autism】 procedures or services rendered by a health care  
35 provider or health care facility for the treatment of mental illness,  
36 emotional disorders, or drug or alcohol abuse.

37 <sup>2</sup>"Health care facility" means the same as defined in section 2 of  
38 P.L.1971, c.136 (C.26:2H-2).

39 "Health care provider" means a health care professional licensed  
40 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

41 "Medically necessary" means health care services and supplies  
42 provided by a health care provider appropriate to the evaluation and  
43 treatment of disease, condition, illness or injury, consistent with the  
44 applicable standard of care, including the evaluation of  
45 experimental or investigational services, procedures, drugs or  
46 devices.

47 "Same terms and conditions" means that the plan cannot apply  
48 different copayments, deductibles or benefit limits to **【biologically-**



1 based mental health] behavioral health care services <sup>1</sup>and autism<sup>1</sup>  
2 benefits than those applied to other medical or surgical benefits.

3 b. [Nothing in this section shall be construed to change the  
4 manner in which the carrier determines:

5 (1) whether a mental health care service meets the medical  
6 necessity standard as established by the carrier; or

7 (2) which providers shall be entitled to reimbursement for  
8 providing services for mental illness under the plan.] (Deleted by  
9 amendment, P.L. , c. ) (pending before the Legislature as this  
10 bill)

11 c. The provisions of this section shall apply to all health  
12 benefits plans in which the carrier has reserved the right to change  
13 the premium.

14 (cf: P.L.1999, c.106, s.6)

15

16 7. Section 7 of P.L.1999, c.106 (C.17B:27A-19.7) is amended  
17 to read as follows:

18 7. a. (1) Every small employer health benefits plan that  
19 provides hospital or medical expense benefits and is delivered,  
20 issued, executed or renewed in this State pursuant to P.L.1992,  
21 c.162 (C.17B:27A-17 et seq.) or approved for issuance or renewal  
22 in this State on or after the effective date of this act shall provide  
23 benefits for **[biologically-based mental illness]** medically necessary  
24 behavioral health care services <sup>1</sup>and autism<sup>1</sup> under the same terms  
25 and conditions as provided for any other sickness under the health  
26 benefits plan and shall meet the requirements of the federal Paul  
27 Wellstone and Pete Domenici Mental Health Parity and Addiction  
28 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,  
29 and federal guidance or regulations issued under that act, including  
30 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).  
31 **["Biologically-based mental illness"]**

32 (2) As used in this section:

33 "Behavioral health care services" means [a mental or nervous  
34 condition that is caused by a biological disorder of the brain and  
35 results in a clinically significant or psychological syndrome or  
36 pattern that substantially limits the functioning of the person with  
37 the illness, including but not limited to, schizophrenia,  
38 schizoaffective disorder, major depressive disorder, bipolar  
39 disorder, paranoia and other psychotic disorders, obsessive-  
40 compulsive disorder, panic disorder and pervasive developmental  
41 disorder or autism] procedures or services rendered by a health care  
42 provider or health care facility for the treatment of mental illness,  
43 emotional disorders, or drug or alcohol abuse.

44 <sup>2</sup>"Health care facility" means the same as defined in section 2 of  
45 P.L.1971, c.136 (C.26:2H-2).

46 "Health care provider" means a health care professional licensed  
47 pursuant to Title 45 of the Revised Statutes. <sup>2</sup>

1       “Medically necessary” means health care services and supplies  
2 provided by a health care provider appropriate to the evaluation and  
3 treatment of disease, condition, illness or injury, consistent with the  
4 applicable standard of care, including the evaluation of  
5 experimental or investigational services, procedures, drugs or  
6 devices.

7       "Same terms and conditions" means that the plan cannot apply  
8 different copayments, deductibles or benefit limits to **【biologically-**  
9 **based mental health】** behavioral health care services <sup>1</sup>and autism<sup>1</sup>  
10 benefits than those applied to other medical or surgical benefits.

11       b. **【Nothing in this section shall be construed to change the**  
12 **manner in which the carrier determines:**

13       (1) whether a mental health care service meets the medical  
14 necessity standard as established by the carrier; or

15       (2) which providers shall be entitled to reimbursement for  
16 providing services for mental illness under the health benefits  
17 plan.】 (Deleted by amendment, P.L. , c. ) (pending before the  
18 Legislature as this bill)

19       c. The provisions of this section shall apply to all health  
20 benefits plans in which the carrier has reserved the right to change  
21 the premium.

22 (cf: P.L.1999, c.106, s.7)

23

24       8. Section 8 of P.L.1999, c.106 (C.26:2J-4.20) is amended to  
25 read as follows:

26       8. a. (1) Every enrollee agreement delivered, issued, executed,  
27 or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et  
28 seq.) or approved for issuance or renewal in this State by the  
29 Commissioner of Banking and Insurance, on or after the effective  
30 date of this act shall provide health care services for 【biologically-  
31 based mental illness】 medically necessary behavioral health care  
32 services <sup>1</sup>and autism<sup>1</sup> under the same terms and conditions as  
33 provided for any other sickness under the agreement and shall meet  
34 the requirements of the federal Paul Wellstone and Pete Domenici  
35 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.  
36 18031(j), and any amendments to, and federal guidance or  
37 regulations issued under that act, including 45 C.F.R. Parts 146 and  
38 147 and 45 C.F.R. 156.115(a)(3). **【"Biologically-based mental**  
39 **illness"】**

40       (2) As used in this section:

41       “Behavioral health care services” means 【a mental or nervous  
42 condition that is caused by a biological disorder of the brain and  
43 results in a clinically significant or psychological syndrome or  
44 pattern that substantially limits the functioning of the person with  
45 the illness, including but not limited to, schizophrenia,  
46 schizoaffective disorder, major depressive disorder, bipolar  
47 disorder, paranoia and other psychotic disorders, obsessive-  
48 compulsive disorder, panic disorder and pervasive developmental

1 disorder or autism】 procedures or services rendered by a health care  
2 provider or health care facility for the treatment of mental illness,  
3 emotional disorders, or drug or alcohol abuse.

4 <sup>2</sup>“Health care facility” means the same as defined in section 2 of  
5 P.L.1971, c.136 (C.26:2H-2).

6 “Health care provider” means a health care professional licensed  
7 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

8 “Medically necessary” means health care services and supplies  
9 provided by a health care provider appropriate to the evaluation and  
10 treatment of disease, condition, illness or injury, consistent with the  
11 applicable standard of care, including the evaluation of  
12 experimental or investigational services, procedures, drugs or  
13 devices.

14 "Same terms and conditions" means that the health maintenance  
15 organization cannot apply different copayments, deductibles, or  
16 health care services limits to **【biologically-based mental】**  
17 behavioral health care <sup>1</sup>and autism<sup>1</sup> services than those applied to  
18 other medical or surgical health care services.

19 b. **【Nothing in this section shall be construed to change the**  
20 **manner in which a health maintenance organization determines:**

21 (1) whether a mental health care service meets the medical  
22 necessity standard as established by the health maintenance  
23 organization; or

24 (2) which providers shall be entitled to reimbursement or to be  
25 participating providers, as appropriate, for mental health services  
26 under the enrollee agreement.】 (Deleted by amendment,  
27 P.L. , c. ) (pending before the Legislature as this bill)

28 c. The provisions of this section shall apply to enrollee  
29 agreements in which the health maintenance organization has  
30 reserved the right to change the premium.

31 (cf: P.L.2012, c.17, s.271)

32

33 9. Section 1 of P.L.1999, c.441 (C.52:14-17.29d) is amended to  
34 read as follows:

35 1. As used in this act:

36 **【"Biologically-based mental illness"】** “Behavioral health care  
37 services” means 【a mental or nervous condition that is caused by a  
38 biological disorder of the brain and results in a clinically significant  
39 or psychological syndrome or pattern that substantially limits the  
40 functioning of the person with the illness including, but not limited  
41 to, schizophrenia, schizoaffective disorder, major depressive  
42 disorder, bipolar disorder, paranoia and other psychotic disorders,  
43 obsessive-compulsive disorder, panic disorder and pervasive  
44 developmental disorder or autism】 procedures or services rendered  
45 by a health care provider or health care facility for the treatment of  
46 mental illness, emotional disorders, or drug or alcohol abuse.

47 "Carrier" means an insurance company, health service  
48 corporation, hospital service corporation, medical service

1 corporation or health maintenance organization authorized to issue  
2 health benefits plans in this State.

3 <sup>2</sup>“Health care facility” means the same as defined in section 2 of  
4 P.L.1971, c.136 (C.26:2H-2).

5 “Health care provider” means a health care professional licensed  
6 pursuant to Title 45 of the Revised Statutes.<sup>2</sup>

7 “Medically necessary” means health care services and supplies  
8 provided by a health care provider appropriate to the evaluation and  
9 treatment of disease, condition, illness or injury, consistent with the  
10 applicable standard of care, including the evaluation of  
11 experimental or investigational services, procedures, drugs or  
12 devices.

13 "Same terms and conditions" means that a carrier cannot apply  
14 different copayments, deductibles or benefit limits to **【biologically-**  
15 **based mental health】** behavioral health care services <sup>1</sup>and autism<sup>1</sup>  
16 benefits than those applied to other medical or surgical benefits.  
17 (cf: P.L.1999, c.441, s.1)

18

19 10. Section 2 of P.L.1999, c.441 (C.52:14-17.29e) is amended to  
20 read as follows:

21 2. a. The State Health Benefits Commission shall ensure that  
22 every contract purchased by the commission on or after the effective  
23 date of this act that provides hospital or medical expense benefits shall  
24 provide coverage for **【biologically-based mental illness】** medically  
25 necessary behavioral health care services <sup>1</sup>and autism<sup>1</sup> under the same  
26 terms and conditions as provided for any other sickness under the  
27 contract.

28 b. **【Nothing in this section shall be construed to change the**  
29 **manner in which a carrier determines:**

30 (1) whether a mental health care service meets the medical  
31 necessity standard as established by the carrier; or

32 (2) which providers shall be entitled to reimbursement for  
33 providing services for mental illness under the contract. **】** ~~(Deleted by~~  
34 ~~amendment, P.L. , c. )(pending before the Legislature as this bill)~~

35 c. The commission shall provide notice to employees regarding  
36 the coverage required by this section in accordance with this  
37 subsection and regulations promulgated by the Commissioner of  
38 Health **【and Senior Services】** pursuant to the "Administrative  
39 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice  
40 shall be in writing and prominently positioned in any literature or  
41 correspondence and shall be transmitted at the earliest of: (1) the next  
42 mailing to the employee; (2) the yearly informational packet sent to  
43 the employee; or (3) July 1, 2000. The commission shall also ensure  
44 that the carrier under contract with the commission, upon receipt of  
45 information that a covered person is receiving treatment for a  
46 biologically-based mental illness, shall promptly notify that person of  
47 the coverage required by this section.

48 (cf: P.L.1999, c.441, s.2)

1 11. (New section) a. For the purposes of this section:

2 "Behavioral health care services" means procedures or services  
3 rendered by a health care provider or health care facility for the  
4 treatment of mental illness, emotional disorders, or drug or alcohol  
5 abuse.

6 "Benefit limits" includes both quantitative treatment limitations  
7 and non-quantitative treatment limitations.

8 "Carrier" means an insurance company, health service  
9 corporation, hospital service corporation, medical service  
10 corporation, or health maintenance organization authorized to issue  
11 health benefits plans in this State or any entity contracted to  
12 administer health benefits in connection with the State Health  
13 Benefits Program or School Employees' Health Benefits Program.

14 "Classification of benefits" means inpatient in-network benefits,  
15 inpatient out-of-network benefits, outpatient in-network benefits,  
16 outpatient out-of-network benefits, prescription drug benefits, and  
17 emergency care benefits; these classifications of benefits are the  
18 only classifications that may be used.

19 "Department" means the Department of Banking and Insurance.

20 "Non-quantitative treatment limitations" or "NQTL" means  
21 processes, strategies, or evidentiary standards, or other factors that  
22 are not expressed numerically, but otherwise limit the scope or  
23 duration of benefits for treatment. NQTLs shall include, but shall  
24 not be limited to:

25 (1) Medical management standards limiting or excluding  
26 benefits based on medical necessity or medical appropriateness, or  
27 based on whether the treatment is experimental or investigative;

28 (2) Formulary design for prescription drugs;

29 (3) For plans with multiple network tiers, such as preferred  
30 providers and participating providers, network tier design;

31 (4) Standards for provider admission to participate in a network,  
32 including reimbursement rates;

33 (5) Plan methods for determining usual, customary, and  
34 reasonable charges;

35 (6) Refusal to pay for higher-cost therapies until it can be shown  
36 that a lower-cost therapy is not effective, also known as fail-first  
37 policies or step therapy protocols;

38 (7) Exclusions based on failure to complete a course of  
39 treatment;

40 (8) Restrictions based on geographic location, facility type,  
41 provider specialty, and other criteria that limit the scope or duration  
42 of benefits for services provided under the plan or coverage;

43 (9) In and out of network geographic limitations;

44 (10) Limitations on inpatient services for situations where the  
45 participant is a threat to self or others;

46 (11) Exclusions for court-ordered and involuntary holds;

47 (12) Experimental treatment limitations;

48 (13) Service coding;

- 1 (14) Exclusions for services provided by a licensed professional  
2 who provides behavioral health care services;
- 3 (15) Network adequacy; and
- 4 (16) Provider reimbursement rates.
- 5 b. A carrier shall not impose a non-quantitative treatment  
6 limitation with respect to a behavioral health care service in any  
7 classification of benefits unless, under the terms of the policy that  
8 provides hospital or medical expense benefits as written and in  
9 operation, any processes, strategies, evidentiary standards or other  
10 factors used in applying the NQTL to behavioral health care service  
11 benefits in the classification are comparable to, and are applied no  
12 more stringently than, the processes, strategies, evidentiary  
13 standards, or other factors used in applying the limitation with  
14 respect to medical or surgical benefits in the same classification.
- 15 c. A carrier providing access to out-of-network providers for  
16 medical or surgical benefits within a classification, shall use  
17 processes, strategies, evidentiary standards, or other factors in  
18 determining access to out-of-network providers for behavioral  
19 health care services benefits that are comparable to, and applied no  
20 more stringently than, the processes, strategies, evidentiary  
21 standards, or other factors in determining access to out-of-network  
22 providers for medical or surgical benefits.
- 23 d. A carrier shall approve a request for an in-plan exception if  
24 the carrier's network does not have any providers who are qualified,  
25 accessible and available to perform the specific medically necessary  
26 service. A carrier shall communicate the availability of in-plan  
27 exceptions:
- 28 (1) on its website where lists of network providers are  
29 displayed; and
- 30 (2) to beneficiaries when they call the carrier to inquire about  
31 network providers.
- 32 e. For any utilization review or benefit determination for the  
33 treatment of a substance use disorder, including but not limited to  
34 prior authorization and medical necessity determinations, the  
35 clinical review criteria shall be the most recent Treatment Criteria  
36 for Addictive, Substance-Related, and Co-Occurring Conditions  
37 established by the American Society of Addiction Medicine. No  
38 additional criteria shall be used during utilization review or benefit  
39 determination for treatment of substance use disorders.
- 40 f. A carrier that provides coverage for prescription drugs may  
41 not exclude coverage for any Food and Drug Administration-  
42 approved forms of medication assisted treatment prescribed for the  
43 treatment of alcohol dependence or treatment of opioid dependence,  
44 if such treatment is medically necessary, according to most recent  
45 Treatment Criteria for Addictive, Substance-Related, and Co-  
46 Occurring Conditions established by the American Society of  
47 Addiction Medicine.
- 48 g. A carrier that provides hospital or medical expense benefits  
49 through individual or group contracts shall submit an annual report

1 to the department on or before March 1 that contains the following  
2 information:

3 (1) The frequency with which the carrier required prior  
4 authorization for all prescribed procedures, services, or medications  
5 for mental health benefits during the previous calendar year, the  
6 frequency with which the carrier required prior authorization for all  
7 prescribed procedures, services, or medications for substance use  
8 disorder benefits during the previous calendar year, and the  
9 frequency with which the carrier required prior authorization for all  
10 prescribed procedures, services, or medications for medical and  
11 surgical benefits during the previous calendar year. A carrier shall  
12 submit this information separately for inpatient in-network and out-  
13 of-network benefits, outpatient in-network benefits, outpatient out-  
14 of-network benefits, emergency care benefits, and prescription drug  
15 benefits; frequency shall be expressed as a percentage, with total  
16 prescribed procedures, services, or medications within each  
17 classification of benefits as the denominator and the overall number  
18 of times prior authorization was required for any prescribed  
19 procedures, services, or medications within each corresponding  
20 classification of benefits as the numerator.

21 (2) A description of the process used to develop or select the  
22 medical necessity criteria for mental health benefits, the process  
23 used to develop or select the medical necessity criteria for substance  
24 use disorder benefits, and the process used to develop or select the  
25 medical necessity criteria for medical and surgical benefits.

26 (3) Identification of all NQTLs that are applied to mental health  
27 benefits, all NQTLs that are applied to substance use disorder  
28 benefits, and all NQTLs that are applied to medical and surgical  
29 benefits;

30 (4) The results of an analysis that demonstrates that for the  
31 medical necessity criteria described in paragraph (2) of this  
32 subsection and for each NQTL identified in paragraph (3) of this  
33 subsection, as written and in operation, the processes, strategies,  
34 evidentiary standards, or other factors used to apply the medical  
35 necessity criteria and each NQTL to behavioral health care benefits  
36 are comparable to, and are applied no more stringently than the  
37 processes, strategies, evidentiary standards, or other factors used to  
38 apply the medical necessity criteria and each NQTL, as written and  
39 in operation, to medical and surgical benefits; at a minimum, the  
40 results of the analysis shall:

41 (a) identify the specific factors the carrier used in performing its  
42 NQTL analysis;

43 (b) identify and define the specific evidentiary standards relied  
44 on to evaluate the factors;

45 (c) describe how the evidentiary standards are applied to each  
46 service category for mental health benefits, substance use disorder  
47 benefits, medical benefits, and surgical benefits;

48 (d) disclose the results of the analyses of the specific evidentiary  
49 standards in each service category; and

1 (e) disclose the specific findings of the carrier in each service  
2 category and the conclusions reached with respect to whether the  
3 processes, strategies, evidentiary standards, or other factors used in  
4 applying the NQTL to mental health or substance use disorder  
5 benefits are comparable to, and applied no more stringently than,  
6 the processes, strategies, evidentiary standards, or other factors used  
7 in applying the NQTL with respect to medical and surgical benefits  
8 in the same classification.

9 (5) The rates of and reasons for denial of claims for inpatient in-  
10 network, inpatient out-of-network, outpatient in-network, outpatient  
11 out-of-network, prescription drug, and emergency care mental  
12 health services during the previous calendar year compared to the  
13 rates of and reasons for denial of claims in those same  
14 classifications of benefits for medical and surgical services during  
15 the previous calendar year.

16 (6) The rates of and reasons for denial of claims for inpatient in-  
17 network, inpatient out-of-network, outpatient in-network, outpatient  
18 out-of-network, prescription drug, and emergency care substance  
19 use disorder services during the previous calendar year compared to  
20 the rates of and reasons for denial of claims in those same  
21 classifications of benefits for medical and surgical services during  
22 the previous calendar year.

23 (7) A certification signed by the carrier's chief executive officer  
24 and chief medical officer that states that the carrier has completed a  
25 comprehensive review of the administrative practices of the carrier  
26 for the prior calendar year for, pursuant to  
27 P.L. , c. (C. )(pending before the Legislature as this bill),  
28 compliance with the necessary provisions of P.L.1999, c.106  
29 (C.17:48-6v et al.), the federal Paul Wellstone and Pete Domenici  
30 Mental Health Parity and Addiction Equity Act of 2008, and 42  
31 U.S.C. 18031(j).

32 (8) Any other information necessary to clarify data provided in  
33 accordance with this section requested by the Commissioner of the  
34 Department of Banking and Insurance including information that  
35 may be proprietary or have commercial value <sup>2</sup>]; the commissioner  
36 shall not certify any contract of a carrier that fails to submit all data  
37 as required by this section]<sup>2</sup>.

38 h. (1) The department may, at the request of the Attorney  
39 General, or in its own discretion, hold a public hearing relative to a  
40 carrier's annual report submitted pursuant to subsection g. of this  
41 section.

42 (2) The department shall post on its Internet website a summary  
43 of the aggregate data from all carriers, submitted pursuant to  
44 subsection g. of this section, regarding the rates of and reasons for  
45 denial of claims for inpatient in-network, inpatient out-of-network,  
46 outpatient in-network, outpatient out-of-network, prescription drug,  
47 and emergency care mental health and substance use disorder  
48 services during the previous calendar year compared to the rates of  
49 and reasons for denial of claims in those same classifications of



1 benefits for medical and surgical services during the previous  
2 calendar year. The department shall also make available the  
3 percentage of in-plan exceptions granted of those requested for  
4 mental health and substance use disorder services for both inpatient  
5 and outpatient out-of-network services compared to the percentage  
6 of in-plan exceptions granted of those requested for medical and  
7 surgical inpatient and outpatient out-of-network services.

8 i. The department shall implement and enforce applicable  
9 provisions of the Paul Wellstone and Pete Domenici Mental Health  
10 Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), any  
11 amendments to, and federal guidance or regulations issued under  
12 that act, including 45 C.F.R. Parts 146 and 147, 45 C.F.R.  
13 156.115(a)(3), P.L.1999, c.106 (C.17:48-6v et al.), and section 2 of  
14 P.L.1999, c.441 (C.52:14-17.29e), which includes:

15 (1) Ensuring compliance by individual and group contracts,  
16 policies, plans, or enrollee agreements delivered, issued, executed,  
17 or renewed in this State pursuant to P.L.1938, c.366 (C.17:48-1 et  
18 seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236  
19 (C.17:48E-1 et seq.), chapter 26 of Title 17B of the New Jersey  
20 Statutes (N.J.S.17B:26-1 et seq.), chapter 27 of Title 17B of the  
21 New Jersey Statutes (N.J.S.17B:27-26 et seq.), P.L.1992, c.161  
22 (C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.),  
23 P.L.1973, c.337 (C.26:2J-1 et seq.), and P.L.1961, c.49 (C.52:14-  
24 17.25 et seq.), or approved for issuance or renewal in this State by  
25 the Commissioner of Banking and Insurance.

26 (2) Detecting violations of the law by individual and group  
27 contracts, policies, plans, or enrollee agreements delivered, issued,  
28 executed, or renewed in this State pursuant to P.L.1938, c.366  
29 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,  
30 c.236 (C.17:48E-1 et seq.), chapter 26 of Title 17B of the New  
31 Jersey Statutes (N.J.S.17B:26-1 et seq.), chapter 27 of Title 17B of  
32 the New Jersey Statutes (N.J.S.17B:27-26 et seq.), P.L.1992, c.161  
33 (C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.),  
34 P.L.1973, c.337 (C.26:2J-1 et seq.), and P.L.1961, c.49 (C.52:14-  
35 17.25 et seq.), or approved for issuance or renewal in this State by  
36 the Commissioner of Banking and Insurance.

37 (3) Accepting, evaluating, and responding to complaints  
38 regarding violations.

39 (4) Maintaining and regularly reviewing for possible parity  
40 violations a publically available consumer complaint log regarding  
41 behavioral health care coverage.

42 (5) Conducting parity compliance market conduct examinations  
43 of individual and group contracts, policies, plans, or enrollee  
44 agreements delivered, issued, executed, or renewed in this State  
45 pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74  
46 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), chapter  
47 26 of Title 17B of the New Jersey Statutes (N.J.S.17B:26-1 et seq.),  
48 chapter 27 of Title 17B of the New Jersey Statutes (N.J.S.17B:27-  
49 26 et seq.), P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992, c.162

1 (C.17B:27A-17 et seq.), P.L.1973, c.337 (C.26:2J-1 et seq.), and  
2 P.L.1961, c.49 (C.52:14-17.25 et seq.), or approved for issuance or  
3 renewal in this State by the Commissioner of Banking and  
4 Insurance, including but not limited to reviews of network  
5 adequacy, reimbursement rates, denials, and prior authorizations.

6 (6) The commissioner shall adopt rules as may be necessary to  
7 effectuate any provisions of the Paul Wellstone and Pete Domenici  
8 Mental Health Parity and Addiction Equity Act of 2008 that relate  
9 to the business of insurance.

10 j. Not later than May 1 of each year, the department shall issue  
11 a report to the Legislature pursuant to section 2 of P.L.1991, c.164  
12 (C.52:14-19.1). The report shall:

13 (1) Cover the methodology the department is using to check for  
14 compliance with the federal Paul Wellstone and Pete Domenici  
15 Mental Health Parity and Addiction Equity Act of 2008  
16 (MHPAEA), 42 U.S.C 18031(j), and any federal regulations or  
17 guidance relating to the compliance and oversight of the MHPAEA  
18 and 42 U.S.C 18031(j).

19 (2) Cover the methodology the department is using to check for  
20 compliance with P.L.1999, c.106 (C.17:48-6v et al.) and section 2  
21 of P.L.1999, c.441 (C.52:14-17.29e).

22 (3) Identify market conduct examinations conducted or  
23 completed during the preceding 12-month period regarding  
24 compliance with parity in mental health and substance use disorder  
25 benefits under state and federal laws and summarize the results of  
26 such market conduct examinations. This shall include:

27 (a) The number of market conduct examinations initiated and  
28 completed;

29 (b) The benefit classifications examined by each market conduct  
30 examination;

31 (c) The subject matters of each market conduct examination,  
32 including quantitative and non-quantitative treatment limitations;

33 (d) A summary of the basis for the final decision rendered in  
34 each market conduct examination; and

35 (e) Individually identifiable information shall be excluded from  
36 the reports consistent with Federal privacy protections.

37 (4) Detail any educational or corrective actions the department  
38 has taken to ensure compliance with MHPAEA, 42 U.S.C 18031(j),  
39 P.L.1999, c.106 (C.17:48-6v et al.) and section 2 of P.L.1999, c.441  
40 (C.52:14-17.29e).

41 (5) Detail the department's educational approaches relating to  
42 informing the public about behavioral health care parity protections  
43 under State and federal law.

44 (6) Be written in non-technical, readily understandable language  
45 and shall be made available to the public by, among such other  
46 means as the department finds appropriate, posting the report on the  
47 department's website.

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- 1       12. This act shall take effect on the 60th day after enactment and
- 2       shall apply to all contracts and policies delivered, issued, executed
- 3       or renewed on or after that date.