

ASSEMBLY, No. 2031

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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District 19 (Middlesex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

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District 17 (Middlesex and Somerset)

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District 11 (Monmouth)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

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District 27 (Essex and Morris)

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Assemblymen Johnson, Benson, Conaway, Assemblywomen McKnight, Chaparro, Assemblyman Wolfe, Assemblywoman Pinkin, Assemblyman Gusciora, Assemblywoman Mosquera, Assemblymen Houghtaling, Giblin, McKeon, Assemblywoman Pintor Marin, Assemblyman Bramnick, Assemblywoman Murphy, Assemblymen Freiman, Karabinchak, Assemblywoman Carter and Assemblyman DeAngelo

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

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 9/28/2018)

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 and autism under the same
18 terms and conditions as provided for any other sickness under the
19 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 "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.

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.

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 and autism benefits than those applied to other
7 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 and autism under the same
32 terms and conditions as provided for any other sickness under the
33 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**

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 “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.

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 medical service
15 corporation cannot apply different copayments, deductibles or
16 benefit limits to **【biologically-based mental health】** behavioral
17 health care services and autism benefits than those applied to other
18 medical or surgical benefits.

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

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

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

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

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

32

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

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

1 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).

2 **["Biologically-based mental illness"]**

3 (2) As used in this section:

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

15 "Health care facility" means the same as defined in section 2 of
16 P.L.1971, c.136 (C.26:2H-2).

17 "Health care provider" means a health care professional licensed
18 pursuant to Title 45 of the Revised Statutes.

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

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

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

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

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

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

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

43

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

46 4. a. (1) Every individual health insurance policy that
47 provides hospital or medical expense benefits and is delivered,

1 issued, executed or renewed in this State pursuant to chapter 26 of
2 Title 17B of the New Jersey Statutes, or approved for issuance or
3 renewal in this State by the Commissioner of Banking and
4 Insurance, on or after the effective date of this act shall provide
5 coverage for **【biologically-based mental illness】** medically
6 necessary behavioral health care services and autism under the same
7 terms and conditions as provided for any other sickness under the
8 contract and shall meet the requirements of the federal Paul
9 Wellstone and Pete Domenici Mental Health Parity and Addiction
10 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,
11 and federal guidance or regulations issued under that act, including
12 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).
13 **【"Biologically-based mental illness"】**

14 (2) As used in this section:

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

26 "Health care facility" means the same as defined in section 2 of
27 P.L.1971, c.136 (C.26:2H-2).

28 "Health care provider" means a health care professional licensed
29 pursuant to Title 45 of the Revised Statutes.

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

36 "Same terms and conditions" means that the insurer cannot apply
37 different copayments, deductibles or benefit limits to **【biologically-**
38 **based mental health】** behavioral health care services and autism
39 benefits than those applied to other medical or surgical benefits.

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

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

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

1 c. The provisions of this section shall apply to all policies in
2 which the insurer has reserved the right to change the premium.
3 (cf: P.L.1999, c.106, s.4)
4

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

7 5. a. (1) Every group health insurance policy that provides
8 hospital or medical expense benefits and is delivered, issued,
9 executed or renewed in this State pursuant to chapter 27 of Title
10 17B of the New Jersey Statutes, or approved for issuance or renewal
11 in this State by the Commissioner of Banking and Insurance, on or
12 after the effective date of this act shall provide benefits for
13 **【biologically-based mental illness】** medically necessary behavioral
14 health care services and autism under the same terms and conditions
15 as provided for any other sickness under the policy and shall meet
16 the requirements of the federal Paul Wellstone and Pete Domenici
17 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.
18 18031(j), and any amendments to, and federal guidance or
19 regulations issued under that act, including 45 C.F.R. Parts 146 and
20 147 and 45 C.F.R. 156.115(a)(3). **【"Biologically-based mental**
21 **illness"】**

22 (2) As used in this section:

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

34 "Health care facility" means the same as defined in section 2 of
35 P.L.1971, c.136 (C.26:2H-2).

36 "Health care provider" means a health care professional licensed
37 pursuant to Title 45 of the Revised Statutes.

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

44 "Same terms and conditions" means that the insurer cannot apply
45 different copayments, deductibles or benefit limits to **【biologically-**
46 **based mental health】** behavioral health care services and autism
47 benefits than those applied to other medical or surgical benefits.

1 b. **Nothing in this section shall be construed to change the**
2 **manner in which the insurer determines:**

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

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

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

11 (cf: P.L.1999, c.106, s.5)

12

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

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

29 (2) As used in this section:

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

41 "Health care facility" means the same as defined in section 2 of
42 P.L.1971, c.136 (C.26:2H-2).

43 "Health care provider" means a health care professional licensed
44 pursuant to Title 45 of the Revised Statutes.

45 "Medically necessary" means health care services and supplies
46 provided by a health care provider appropriate to the evaluation and
47 treatment of disease, condition, illness or injury, consistent with the

1 applicable standard of care, including the evaluation of
2 experimental or investigational services, procedures, drugs or
3 devices.

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

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

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

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

16 c. The provisions of this section shall apply to all health
17 benefits plans in which the carrier has reserved the right to change
18 the premium.

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

20

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

23 7. a. (1) Every small employer health benefits plan that
24 provides hospital or medical expense benefits and is delivered,
25 issued, executed or renewed in this State pursuant to P.L.1992,
26 c.162 (C.17B:27A-17 et seq.) or approved for issuance or renewal
27 in this State on or after the effective date of this act shall provide
28 benefits for **【biologically-based mental illness】** medically necessary
29 behavioral health care services and autism under the same terms and
30 conditions as provided for any other sickness under the health
31 benefits plan and shall meet the requirements of the federal Paul
32 Wellstone and Pete Domenici Mental Health Parity and Addiction
33 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,
34 and federal guidance or regulations issued under that act, including
35 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).

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

37 (2) As used in this section:

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

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 plan cannot apply
14 different copayments, deductibles or benefit limits to **【biologically-**
15 **based mental health】** behavioral health care services and autism
16 benefits than those applied to other medical or surgical benefits.

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

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

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

25 c. The provisions of this section shall apply to all health
26 benefits plans in which the carrier has reserved the right to change
27 the premium.

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

29

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

32 8. a. (1) Every enrollee agreement delivered, issued, executed,
33 or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et
34 seq.) or approved for issuance or renewal in this State by the
35 Commissioner of Banking and Insurance, on or after the effective
36 date of this act shall provide health care services for **【biologically-**
37 **based mental illness】** medically necessary behavioral health care
38 services and autism under the same terms and conditions as
39 provided for any other sickness under the agreement and shall meet
40 the requirements of the federal Paul Wellstone and Pete Domenici
41 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.
42 18031(j), and any amendments to, and federal guidance or
43 regulations issued under that act, including 45 C.F.R. Parts 146 and
44 147 and 45 C.F.R. 156.115(a)(3). **【"Biologically-based mental**
45 **illness"】**

46 (2) As used in this section:

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

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

14 “Health care provider” means a health care professional licensed
15 pursuant to Title 45 of the Revised Statutes.

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

22 "Same terms and conditions" means that the health maintenance
23 organization cannot apply different copayments, deductibles, or
24 health care services limits to **[biologically-based mental]**
25 behavioral health care and autism services than those applied to
26 other medical or surgical health care services.

27 b. **[Nothing in this section shall be construed to change the**
28 manner in which a health maintenance organization determines:

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

32 (2) which providers shall be entitled to reimbursement or to be
33 participating providers, as appropriate, for mental health services
34 under the enrollee agreement.**]** (Deleted by amendment, P.L. _____,
35 c. _____) (pending before the Legislature as this bill)

36 c. The provisions of this section shall apply to enrollee
37 agreements in which the health maintenance organization has
38 reserved the right to change the premium.

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

40

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

43 1. As used in this act:

44 **["Biologically-based mental illness"]** “Behavioral health care
45 services” means **[a mental or nervous condition that is caused by a**
46 biological disorder of the brain and results in a clinically significant
47 or psychological syndrome or pattern that substantially limits the

1 functioning of the person with the illness including, but not limited
2 to, schizophrenia, schizoaffective disorder, major depressive
3 disorder, bipolar disorder, paranoia and other psychotic disorders,
4 obsessive-compulsive disorder, panic disorder and pervasive
5 developmental disorder or autism] procedures or services rendered
6 by a health care provider or health care facility for the treatment of
7 mental illness, emotional disorders, or drug or alcohol abuse.

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.

12 "Health care facility" means the same as defined in section 2 of
13 P.L.1971, c.136 (C.26:2H-2).

14 "Health care provider" means a health care professional licensed
15 pursuant to Title 45 of the Revised Statutes.

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

22 "Same terms and conditions" means that a carrier cannot apply
23 different copayments, deductibles or benefit limits to **【biologically-**
24 **based mental health】** behavioral health care services and autism
25 benefits than those applied to other medical or surgical benefits.

26 (cf: P.L.1999, c.441, s.1)

27
28 10. Section 2 of P.L.1999, c.441 (C.52:14-17.29e) is amended to
29 read as follows:

30 2. a. The State Health Benefits Commission shall ensure that
31 every contract purchased by the commission on or after the effective
32 date of this act that provides hospital or medical expense benefits shall
33 provide coverage for **【biologically-based mental illness】** medically
34 necessary behavioral health care services and autism under the same
35 terms and conditions as provided for any other sickness under the
36 contract.

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

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

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

44 c. The commission shall provide notice to employees regarding
45 the coverage required by this section in accordance with this
46 subsection and regulations promulgated by the Commissioner of
47 Health **【and Senior Services】** pursuant to the "Administrative

1 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice
2 shall be in writing and prominently positioned in any literature or
3 correspondence and shall be transmitted at the earliest of: (1) the next
4 mailing to the employee; (2) the yearly informational packet sent to
5 the employee; or (3) July 1, 2000. The commission shall also ensure
6 that the carrier under contract with the commission, upon receipt of
7 information that a covered person is receiving treatment for a
8 biologically-based mental illness, shall promptly notify that person of
9 the coverage required by this section.

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

11

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

13 "Behavioral health care services" means procedures or services
14 rendered by a health care provider or health care facility for the
15 treatment of mental illness, emotional disorders, or drug or alcohol
16 abuse.

17 "Benefit limits" includes both quantitative treatment limitations
18 and non-quantitative treatment limitations.

19 "Carrier" means an insurance company, health service
20 corporation, hospital service corporation, medical service
21 corporation, or health maintenance organization authorized to issue
22 health benefits plans in this State or any entity contracted to
23 administer health benefits in connection with the State Health
24 Benefits Program or School Employees' Health Benefits Program.

25 "Classification of benefits" means inpatient in-network benefits,
26 inpatient out-of-network benefits, outpatient in-network benefits,
27 outpatient out-of-network benefits, prescription drug benefits, and
28 emergency care benefits; these classifications of benefits are the
29 only classifications that may be used.

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

31 "Non-quantitative treatment limitations" or "NQTL" means
32 processes, strategies, or evidentiary standards, or other factors that
33 are not expressed numerically, but otherwise limit the scope or
34 duration of benefits for treatment. NQTLs shall include, but shall
35 not be limited to:

36 (1) Medical management standards limiting or excluding
37 benefits based on medical necessity or medical appropriateness, or
38 based on whether the treatment is experimental or investigative;

39 (2) Formulary design for prescription drugs;

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

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

44 (5) Plan methods for determining usual, customary, and
45 reasonable charges;

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

- 1 (7) Exclusions based on failure to complete a course of
2 treatment;
 - 3 (8) Restrictions based on geographic location, facility type,
4 provider specialty, and other criteria that limit the scope or duration
5 of benefits for services provided under the plan or coverage;
 - 6 (9) In and out of network geographic limitations;
 - 7 (10) Limitations on inpatient services for situations where the
8 participant is a threat to self or others;
 - 9 (11) Exclusions for court-ordered and involuntary holds;
 - 10 (12) Experimental treatment limitations;
 - 11 (13) Service coding;
 - 12 (14) Exclusions for services provided by a licensed professional
13 who provides behavioral health care services;
 - 14 (15) Network adequacy; and
 - 15 (16) Provider reimbursement rates.
- 16 b. A carrier shall not impose a non-quantitative treatment
17 limitation with respect to a behavioral health care service in any
18 classification of benefits unless, under the terms of the policy that
19 provides hospital or medical expense benefits as written and in
20 operation, any processes, strategies, evidentiary standards or other
21 factors used in applying the NQTL to behavioral health care service
22 benefits in the classification are comparable to, and are applied no
23 more stringently than, the processes, strategies, evidentiary
24 standards, or other factors used in applying the limitation with
25 respect to medical or surgical benefits in the same classification.
- 26 c. A carrier providing access to out-of-network providers for
27 medical or surgical benefits within a classification, shall use
28 processes, strategies, evidentiary standards, or other factors in
29 determining access to out-of-network providers for behavioral
30 health care services benefits that are comparable to, and applied no
31 more stringently than, the processes, strategies, evidentiary
32 standards, or other factors in determining access to out-of-network
33 providers for medical or surgical benefits.
- 34 d. A carrier shall approve a request for an in-plan exception if
35 the carrier's network does not have any providers who are qualified,
36 accessible and available to perform the specific medically necessary
37 service. A carrier shall communicate the availability of in-plan
38 exceptions:
- 39 (1) on its website where lists of network providers are
40 displayed; and
 - 41 (2) to beneficiaries when they call the carrier to inquire about
42 network providers.
- 43 e. For any utilization review or benefit determination for the
44 treatment of a substance use disorder, including but not limited to
45 prior authorization and medical necessity determinations, the
46 clinical review criteria shall be the most recent Treatment Criteria
47 for Addictive, Substance-Related, and Co-Occurring Conditions
48 established by the American Society of Addiction Medicine. No

1 additional criteria shall be used during utilization review or benefit
2 determination for treatment of substance use disorders.

3 f. A carrier that provides coverage for prescription drugs may
4 not exclude coverage for any Food and Drug Administration-
5 approved forms of medication assisted treatment prescribed for the
6 treatment of alcohol dependence or treatment of opioid dependence,
7 if such treatment is medically necessary, according to most recent
8 Treatment Criteria for Addictive, Substance-Related, and Co-
9 Occurring Conditions established by the American Society of
10 Addiction Medicine.

11 g. A carrier that provides hospital or medical expense benefits
12 through individual or group contracts shall submit an annual report
13 to the department on or before March 1 that contains the following
14 information:

15 (1) The frequency with which the carrier required prior
16 authorization for all prescribed procedures, services, or medications
17 for mental health benefits during the previous calendar year, the
18 frequency with which the carrier required prior authorization for all
19 prescribed procedures, services, or medications for substance use
20 disorder benefits during the previous calendar year, and the
21 frequency with which the carrier required prior authorization for all
22 prescribed procedures, services, or medications for medical and
23 surgical benefits during the previous calendar year. A carrier shall
24 submit this information separately for inpatient in-network and out-
25 of-network benefits, outpatient in-network benefits, outpatient out-
26 of-network benefits, emergency care benefits, and prescription drug
27 benefits; frequency shall be expressed as a percentage, with total
28 prescribed procedures, services, or medications within each
29 classification of benefits as the denominator and the overall number
30 of times prior authorization was required for any prescribed
31 procedures, services, or medications within each corresponding
32 classification of benefits as the numerator.

33 (2) A description of the process used to develop or select the
34 medical necessity criteria for mental health benefits, the process
35 used to develop or select the medical necessity criteria for substance
36 use disorder benefits, and the process used to develop or select the
37 medical necessity criteria for medical and surgical benefits.

38 (3) Identification of all NQTLs that are applied to mental health
39 benefits, all NQTLs that are applied to substance use disorder
40 benefits, and all NQTLs that are applied to medical and surgical
41 benefits;

42 (4) The results of an analysis that demonstrates that for the
43 medical necessity criteria described in paragraph (2) of this
44 subsection and for each NQTL identified in paragraph (3) of this
45 subsection, as written and in operation, the processes, strategies,
46 evidentiary standards, or other factors used to apply the medical
47 necessity criteria and each NQTL to behavioral health care benefits
48 are comparable to, and are applied no more stringently than the

1 processes, strategies, evidentiary standards, or other factors used to
2 apply the medical necessity criteria and each NQTL, as written and
3 in operation, to medical and surgical benefits; at a minimum, the
4 results of the analysis shall:

5 (a) identify the specific factors the carrier used in performing its
6 NQTL analysis;

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

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

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

14 (e) disclose the specific findings of the carrier in each service
15 category and the conclusions reached with respect to whether the
16 processes, strategies, evidentiary standards, or other factors used in
17 applying the NQTL to mental health or substance use disorder
18 benefits are comparable to, and applied no more stringently than,
19 the processes, strategies, evidentiary standards, or other factors used
20 in applying the NQTL with respect to medical and surgical benefits
21 in the same classification.

22 (5) The rates of and reasons for denial of claims for inpatient in-
23 network, inpatient out-of-network, outpatient in-network, outpatient
24 out-of-network, prescription drug, and emergency care mental
25 health services during the previous calendar year compared to the
26 rates of and reasons for denial of claims in those same
27 classifications of benefits for medical and surgical services during
28 the previous calendar year.

29 (6) The rates of and reasons for denial of claims for inpatient in-
30 network, inpatient out-of-network, outpatient in-network, outpatient
31 out-of-network, prescription drug, and emergency care substance
32 use disorder services during the previous calendar year compared to
33 the rates of and reasons for denial of claims in those same
34 classifications of benefits for medical and surgical services during
35 the previous calendar year.

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

44 (8) Any other information necessary to clarify data provided in
45 accordance with this section requested by the Commissioner of the
46 Department of Banking and Insurance including information that
47 may be proprietary or have commercial value.

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

5 (2) The department shall post on its Internet website a summary
6 of the aggregate data from all carriers, submitted pursuant to
7 subsection g. of this section, regarding the rates of and reasons for
8 denial of claims for inpatient in-network, inpatient out-of-network,
9 outpatient in-network, outpatient out-of-network, prescription drug,
10 and emergency care mental health and substance use disorder
11 services during the previous calendar year compared to the rates of
12 and reasons for denial of claims in those same classifications of
13 benefits for medical and surgical services during the previous
14 calendar year. The department shall also make available the
15 percentage of in-plan exceptions granted of those requested for
16 mental health and substance use disorder services for both inpatient
17 and outpatient out-of-network services compared to the percentage
18 of in-plan exceptions granted of those requested for medical and
19 surgical inpatient and outpatient out-of-network services.

20 i. The department shall implement and enforce applicable
21 provisions of the Paul Wellstone and Pete Domenici Mental Health
22 Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), any
23 amendments to, and federal guidance or regulations issued under
24 that act, including 45 C.F.R. Parts 146 and 147, 45 C.F.R.
25 156.115(a)(3), P.L.1999, c.106 (C.17:48-6v et al.), and section 2 of
26 P.L.1999, c.441 (C.52:14-17.29e), which includes:

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

38 (2) Detecting violations of the law by individual and group
39 contracts, policies, plans, or enrollee agreements delivered, issued,
40 executed, or renewed in this State pursuant to P.L.1938, c.366
41 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,
42 c.236 (C.17:48E-1 et seq.), chapter 26 of Title 17B of the New
43 Jersey Statutes (N.J.S.17B:26-1 et seq.), chapter 27 of Title 17B of
44 the New Jersey Statutes (N.J.S.17B:27-26 et seq.), P.L.1992, c.161
45 (C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.),
46 P.L.1973, c.337 (C.26:2J-1 et seq.), and P.L.1961, c.49 (C.52:14-
47 17.25 et seq.), or approved for issuance or renewal in this State by
48 the Commissioner of Banking and Insurance.

- 1 (3) Accepting, evaluating, and responding to complaints
2 regarding violations.
- 3 (4) Maintaining and regularly reviewing for possible parity
4 violations a publically available consumer complaint log regarding
5 behavioral health care coverage.
- 6 (5) Conducting parity compliance market conduct examinations
7 of individual and group contracts, policies, plans, or enrollee
8 agreements delivered, issued, executed, or renewed in this State
9 pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940, c.74
10 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.), chapter
11 26 of Title 17B of the New Jersey Statutes (N.J.S.17B:26-1 et seq.),
12 chapter 27 of Title 17B of the New Jersey Statutes (N.J.S.17B:27-
13 26 et seq.), P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992, c.162
14 (C.17B:27A-17 et seq.), P.L.1973, c.337 (C.26:2J-1 et seq.), and
15 P.L.1961, c.49 (C.52:14-17.25 et seq.), or approved for issuance or
16 renewal in this State by the Commissioner of Banking and
17 Insurance, including but not limited to reviews of network
18 adequacy, reimbursement rates, denials, and prior authorizations.
- 19 (6) The commissioner shall adopt rules as may be necessary to
20 effectuate any provisions of the Paul Wellstone and Pete Domenici
21 Mental Health Parity and Addiction Equity Act of 2008 that relate
22 to the business of insurance.
- 23 j. Not later than May 1 of each year, the department shall issue
24 a report to the Legislature pursuant to section 2 of P.L.1991, c.164
25 (C.52:14-19.1). The report shall:
- 26 (1) Cover the methodology the department is using to check for
27 compliance with the federal Paul Wellstone and Pete Domenici
28 Mental Health Parity and Addiction Equity Act of 2008
29 (MHPAEA), 42 U.S.C 18031(j), and any federal regulations or
30 guidance relating to the compliance and oversight of the MHPAEA
31 and 42 U.S.C 18031(j).
- 32 (2) Cover the methodology the department is using to check for
33 compliance with P.L.1999, c.106 (C.17:48-6v et al.) and section 2
34 of P.L.1999, c.441 (C.52:14-17.29e).
- 35 (3) Identify market conduct examinations conducted or
36 completed during the preceding 12-month period regarding
37 compliance with parity in mental health and substance use disorder
38 benefits under state and federal laws and summarize the results of
39 such market conduct examinations. This shall include:
- 40 (a) The number of market conduct examinations initiated and
41 completed;
- 42 (b) The benefit classifications examined by each market conduct
43 examination;
- 44 (c) The subject matters of each market conduct examination,
45 including quantitative and non-quantitative treatment limitations;
- 46 (d) A summary of the basis for the final decision rendered in
47 each market conduct examination; and

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

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

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

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

14
15 12. This act shall take effect on the 60th day after enactment and
16 shall apply to all contracts and policies delivered, issued, executed
17 or renewed on or after that date.

18
19
20 STATEMENT

21
22 This bill requires hospital, medical and health service
23 corporations, commercial insurers, health maintenance
24 organizations, health benefits plans issued pursuant to the New
25 Jersey Individual Health Coverage and Small Employer Health
26 Benefits Programs, the State Health Benefits Program, and the
27 School Employees' Health Benefits Program, to provide coverage,
28 for medically necessary behavioral health care services and to meet
29 the requirements of the federal Paul Wellstone and Pete Domenici
30 Mental Health Parity and Addiction Equity Act of 2008. That act
31 prevents certain health insurers that provide mental health or
32 substance use disorder benefits from imposing less favorable
33 benefit limitations on those benefits than on medical or surgical
34 benefits, commonly referred to as mental health parity.

35 The bill amends several statutes, initially enacted in 1999, which
36 require hospital, medical and health service corporations, individual
37 and group health insurers and the State Health Benefits Program to
38 provide coverage for biologically-based mental illness under the
39 same terms and conditions as provided for any other sickness. The
40 bill expands that coverage to include coverage for behavioral health
41 care services and autism. Behavioral health care services is defined
42 as procedures or services rendered by a health care provider or
43 health care facility for the treatment of mental illness, emotional
44 disorders, or drug or alcohol abuse.

45 The bill also removes certain provisions of the statutes that
46 provide that nothing in those statutes shall be construed to change
47 the manner in which the insurer determines:

- 1 (1) whether a mental health care service meets the medical
- 2 necessity standard as established by the insurer; or
- 3 (2) which providers shall be entitled to reimbursement or to be
- 4 participating providers, as appropriate, for mental health services
- 5 under the policy or contract.

6 The bill also supplements the "Health Care Quality Act,"
7 P.L.1997, c.192 (C.26:2S-1 et al.) to place certain restrictions on
8 carriers to ensure parity with respect to imposing non-quantitative
9 treatment limitations, the use of out-of-network providers, and in-
10 plan exceptions for behavioral health care services.

11 The bill further specifies that for any utilization review or benefit
12 determination for the treatment of a substance use disorder,
13 including but not limited to prior authorization and medical
14 necessity determinations, the clinical review criteria shall be the
15 most recent Treatment Criteria for Addictive, Substance-Related,
16 and Co-Occurring Conditions established by the American Society
17 of Addiction Medicine. No additional criteria shall be used during
18 utilization review or benefit determination for treatment of
19 substance use disorders.

20 In addition, the bill prohibits a carrier that provides coverage for
21 prescription drugs from excluding coverage for any FDA-approved
22 forms of medication assisted treatment prescribed for the treatment
23 of alcohol dependence or treatment of opioid dependence, if such
24 treatment is medically necessary, according to the most recent
25 Treatment Criteria for Addictive, Substance-Related, and Co-
26 Occurring Conditions established by the American Society of
27 Addiction Medicine.

28 The bill requires carriers to submit an annual report to the
29 Department of Banking and Insurance on or before March 1 that
30 contains certain information concerning compliance with the bill's
31 provisions. The bill also requires the department, not later than
32 May 1 of each year, to issue a report to the Legislature pursuant to
33 section 2 of P.L.1991, c.164 (C.52:14-19.1) and to make that report
34 available to the public. The report is to detail certain information
35 for the purposes of the sections of the bill mandating health insurers
36 to cover behavioral health care services, define "health care
37 facility" to mean the same as defined in section 2 of P.L.1971,
38 c.136 (C.26:2H-2) and "health care provider" to mean a health care
39 professional licensed pursuant to Title 45 of the Revised Statutes.

40 Also delete the provisions of the bill that prohibits the
41 Commissioner of Banking and Insurance from certifying any
42 contract of a carrier that fails to submit all data as required under
43 certain provisions of the bill. on relating to the department's
44 oversight of the bill's provisions.