

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED SEPTEMBER 13, 2018

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SYNOPSIS

Enhances enforcement and oversight of mental health condition and substance use disorder parity laws.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on March 18, 2019, with amendments.

(Sponsorship Updated As Of: 3/26/2019)

1 AN ACT concerning health insurance coverage for ¹**behavioral**
2 health care services and **mental health conditions and substance**
3 use disorders,¹ amending various parts of the statutory law and
4 supplementing P.L.1997, c.192 (C.26:2S-1 et al.).
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

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

11 1. a. (1) Every individual and group hospital service
12 corporation contract that provides hospital or medical expense
13 benefits and is delivered, issued, executed or renewed in this State
14 pursuant to P.L.1938, c.366 (C.17:48-1 et seq.), or approved for
15 issuance or renewal in this State by the Commissioner of Banking
16 and Insurance, on or after the effective date of this act shall provide
17 coverage for **biologically-based mental illness** ¹**behavioral**
18 **health care services** mental health conditions and substance use
19 disorders¹ under the same terms and conditions as provided for any
20 other sickness under the contract and shall meet the requirements of
21 the federal Paul Wellstone and Pete Domenici Mental Health Parity
22 and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any
23 amendments to, and federal guidance or regulations issued under
24 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
25 156.115(a)(3). ["Biologically-based mental illness"]

26 (2) As used in this section:

27 ¹**["Behavioral health care services" means]** ¹ **[a mental or**
28 nervous condition that is caused by a biological disorder of the
29 brain and results in a clinically significant or psychological
30 syndrome or pattern that substantially limits the functioning of the
31 person with the illness, including but not limited to, schizophrenia,
32 schizoaffective disorder, major depressive disorder, bipolar
33 disorder, paranoia and other psychotic disorders, obsessive-
34 compulsive disorder, panic disorder and pervasive developmental
35 disorder or autism] ¹**[procedures or services rendered by a health**
36 care provider or health care facility for the treatment of mental
37 illness, emotional disorders, pervasive developmental disorder and
38 autism, or drug or alcohol abuse.

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

41 "Health care provider" means a health care professional licensed
42 pursuant to Title 45 of the Revised Statutes.]

43 "Mental health condition" means a condition defined to be
44 consistent with generally recognized independent standards 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:

¹Senate SBA committee amendments adopted March 18, 2019.

1 current medical practice referenced in the current version of the
2 Diagnostic and Statistical Manual of Mental Disorders¹.

3 "Same terms and conditions" means that the hospital service
4 corporation cannot apply ¹**[different]** more restrictive non-
5 qualitative limitations, such as utilization review and other criteria
6 or more quantitative limitations such as¹ copayments, deductibles ¹,
7 aggregate or annual limits¹ or benefit limits to **[biologically-based**
8 **mental health]** ¹**[behavioral health care services]** mental health
9 condition and substance use disorder¹ benefits than those applied to
10 ¹substantially all¹ other medical or surgical benefits.

11 ¹"Substance use disorder" means a disorder defined to be
12 consistent with generally recognized independent standards of
13 current medical practice referenced in the most current version of
14 the Diagnostic and Statistical Manual of Mental Disorders.¹

15 b. **[Nothing in this section shall be construed to change the**
16 **manner in which a hospital service corporation determines:**

17 (1) whether a mental health care service meets the medical
18 necessity standard as established by the hospital service
19 corporation; or

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

24 c. The provisions of this section shall apply to all contracts in
25 which the hospital service corporation has reserved the right to
26 change the premium.

27 ¹d. Nothing in this section shall reduce the requirement for a
28 hospital service corporation to provide benefits pursuant to section
29 1 of P.L.2017, c.28 (C.17:48-6nn).¹

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

31

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

34 2. a. (1) Every individual and group medical service
35 corporation contract that provides hospital or medical expense
36 benefits that is delivered, issued, executed or renewed in this State
37 pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.), or approved for
38 issuance or renewal in this State by the Commissioner of Banking
39 and Insurance, on or after the effective date of this act shall provide
40 coverage for **[biologically-based mental illness]** ¹**[behavioral**
41 **health care services]** mental health conditions and substance use
42 disorders¹ under the same terms and conditions as provided for any
43 other sickness under the contract and shall meet the requirements of
44 the federal Paul Wellstone and Pete Domenici Mental Health Parity
45 and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any
46 amendments to, and federal guidance or regulations issued under

1 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
2 156.115(a)(3). **["Biologically-based mental illness"]**

3 (2) As used in this section:

4 **["Behavioral health care services" means]¹ [a mental or**
5 nervous condition that is caused by a biological disorder of the
6 brain and results in a clinically significant or psychological
7 syndrome or pattern that substantially limits the functioning of the
8 person with 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] ¹**[procedures or services rendered by a health**
13 care provider or health care facility for the treatment of mental
14 illness, emotional disorders, pervasive developmental disorder and
15 autism, or drug or alcohol abuse.

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

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

20 "Mental health condition" means a condition defined to be
21 consistent with generally recognized independent standards of
22 current medical practice referenced in the current version of the
23 Diagnostic and Statistical Manual of Mental Disorders¹.

24 "Same terms and conditions" means that the medical service
25 corporation cannot apply ¹**[different] more restrictive non-**
26 qualitative limitations, such as utilization review and other criteria
27 or more quantitative limitations such as¹ copayments, deductibles ¹,
28 aggregate or annual limits¹ or benefit limits to **[biologically-based**
29 mental health] ¹**[behavioral health care services] mental health**
30 condition and substance use disorder¹ benefits than those applied to
31 ¹substantially all¹ other medical or surgical benefits.

32 ¹"Substance use disorder" means a disorder defined to be
33 consistent with generally recognized independent standards of
34 current medical practice referenced in the most current version of
35 the Diagnostic and Statistical Manual of Mental Disorders.¹

36 b. **[Nothing in this section shall be construed to change the**
37 manner in which a medical service corporation determines:

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

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

45 c. The provisions of this section shall apply to all contracts in
46 which the medical service corporation has reserved the right to
47 change the premium.

1 ¹d. Nothing in this section shall reduce the requirement for a
2 medical service corporation to provide benefits pursuant to section
3 2 of P.L.2017, c.28 (C.17:48A-7kk).¹
4 (cf: P.L.1999, c.106, s.2)

5
6 3. Section 3 of P.L.1999, c.106 (C.17:48E-35.20) is amended
7 to read as follows:

8 3. a. (1) Every individual and group health service corporation
9 contract that provides hospital or medical expense benefits and is
10 delivered, issued, executed or renewed in this State pursuant to
11 P.L.1985, c.236 (C.17:48E-1 et seq.), or approved for issuance or
12 renewal in this State by the Commissioner of Banking and
13 Insurance, on or after the effective date of this act shall provide
14 coverage for **【biologically-based mental illness】** ¹**【behavioral**
15 **health care services】** mental health conditions and substance use
16 disorders¹ under the same terms and conditions as provided for any
17 other sickness under the contract and shall meet the requirements of
18 the federal Paul Wellstone and Pete Domenici Mental Health Parity
19 and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any
20 amendments to, and federal guidance or regulations issued under
21 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
22 156.115(a)(3). 【"Biologically-based mental illness"】

23 (2) As used in this section:

24 ¹**【“Behavioral health care services” means】** ¹ **【a mental or**
25 **nervous condition that is caused by a biological disorder of the**
26 **brain and results in a clinically significant or psychological**
27 **syndrome or pattern that substantially limits the functioning of the**
28 **person with the illness, including but not limited to, schizophrenia,**
29 **schizoaffective disorder, major depressive disorder, bipolar**
30 **disorder, paranoia and other psychotic disorders, obsessive-**
31 **compulsive disorder, panic disorder and pervasive developmental**
32 **disorder or autism】** ¹**【procedures or services rendered by a health**
33 **care provider or health care facility for the treatment of mental**
34 **illness, emotional disorders, pervasive developmental disorder and**
35 **autism, or drug or alcohol abuse.**

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

38 “Health care provider” means a health care professional licensed
39 pursuant to Title 45 of the Revised Statutes】

40 “Mental health condition” means a condition defined to be
41 consistent with generally recognized independent standards of
42 current medical practice referenced in the current version of the
43 Diagnostic and Statistical Manual of Mental Disorders¹.

44 "Same terms and conditions" means that the health service
45 corporation cannot apply ¹**【different】** more restrictive non-
46 qualitative limitations, such as utilization review and other criteria
47 or more quantitative limitations such as¹ copayments, deductibles ¹,

1 aggregate or annual limits¹ or benefit limits to **【biologically-based**
2 **mental health】** ¹**【behavioral health care services】** mental health
3 condition and substance use disorder¹ benefits than those applied to
4 substantially all¹ other medical or surgical benefits.

5 ¹“Substance use disorder” means a disorder defined to be

6 consistent with generally recognized independent standards of

7 current medical practice referenced in the most current version of

8 the Diagnostic and Statistical Manual of Mental Disorders.¹

9 b. **【Nothing in this section shall be construed to change the**

10 **manner in which the health service corporation determines:**

11 (1) whether a mental health care service meets the medical

12 necessity standard as established by the health service corporation;

13 or

14 (2) which providers shall be entitled to reimbursement for

15 providing services for mental illness under the contract.】 (Deleted

16 by amendment, P.L. , c.)(pending before the Legislature as

17 this bill)

18 c. The provisions of this section shall apply to all contracts in

19 which the health service corporation has reserved the right to

20 change the premium.

21 ¹d. Nothing in this section shall reduce the requirement for a

22 health service corporation to provide benefits pursuant to section 3

23 of P.L.2017, c.28 (C.17:48E-35.38).¹

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

25

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

27 read as follows:

28 4. a. (1) Every individual health insurance policy that

29 provides hospital or medical expense benefits and is delivered,

30 issued, executed or renewed in this State pursuant to chapter 26 of

31 Title 17B of the New Jersey Statutes, or approved for issuance or

32 renewal in this State by the Commissioner of Banking and

33 Insurance, on or after the effective date of this act shall provide

34 coverage for **【biologically-based mental illness】** ¹**【behavioral**

35 **health care services】** mental health conditions and substance use

36 disorders¹ under the same terms and conditions as provided for any

37 other sickness under the contract and shall meet the requirements of

38 the federal Paul Wellstone and Pete Domenici Mental Health Parity

39 and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any

40 amendments to, and federal guidance or regulations issued under

41 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.

42 156.115(a)(3). **【"Biologically-based mental illness"】**

43 (2) As used in this section:

44 ¹**【“Behavioral health care services” means】**¹ **【a mental or**

45 **nervous condition that is caused by a biological disorder of the**

46 **brain and results in a clinically significant or psychological**

47 **syndrome or pattern that substantially limits the functioning of the**

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

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

11 “Health care provider” means a health care professional licensed
12 pursuant to Title 45 of the Revised Statutes.]

13 “Mental health condition” means a condition defined to be
14 consistent with generally recognized independent standards of
15 current medical practice referenced in the current version of the
16 Diagnostic and Statistical Manual of Mental Disorders¹.

17 "Same terms and conditions" means that the insurer cannot apply
18 ¹[different] more restrictive non-qualitative limitations, such as
19 utilization review and other criteria or more quantitative limitations
20 such as¹ copayments, deductibles ¹, aggregate or annual limits¹ or
21 benefit limits to [biologically-based mental health] ¹[behavioral
22 health care services] mental health condition and substance use
23 disorder¹ benefits than those applied to ¹substantially all¹ other
24 medical or surgical benefits.

25 ¹“Substance use disorder” means a disorder defined to be
26 consistent with generally recognized independent standards of
27 current medical practice referenced in the most current version of
28 the Diagnostic and Statistical Manual of Mental Disorders.¹

29 b. [Nothing in this section shall be construed to change the
30 manner in which the insurer determines:

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

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

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

39 ¹d. Nothing in this section shall reduce the requirement for an
40 insurer to provide benefits pursuant to section 4 of P.L.2017, c.28
41 (C.17B:26-2.1hh).¹

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

43
44 5. Section 5 of P.L.1999, c.106 (C.17B:27-46.1v) is amended
45 to read as follows:

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

1 executed or renewed in this State pursuant to chapter 27 of Title
2 17B of the New Jersey Statutes, or approved for issuance or renewal
3 in this State by the Commissioner of Banking and Insurance, on or
4 after the effective date of this act shall provide benefits for
5 **【biologically-based mental illness】** ¹**【behavioral health care**
6 **services】** mental health conditions and substance use disorders¹
7 under the same terms and conditions as provided for any other
8 sickness under the policy and shall meet the requirements of the
9 federal Paul Wellstone and Pete Domenici Mental Health Parity and
10 Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any
11 amendments to, and federal guidance or regulations issued under
12 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
13 156.115(a)(3). 【"Biologically-based mental illness"】

14 (2) As used in this section:

15 ¹**【“Behavioral health care services” means】**¹ **【a mental or**
16 **nervous condition that is caused by a biological disorder of the**
17 **brain and results in a clinically significant or psychological**
18 **syndrome or pattern that substantially limits the functioning of the**
19 **person with 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】** ¹**【procedures or services rendered by a health**
24 **care provider or health care facility for the treatment of mental**
25 **illness, emotional disorders, pervasive developmental disorder and**
26 **autism, or drug or alcohol abuse.**

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

29 “Health care provider” means a health care professional licensed
30 pursuant to Title 45 of the Revised Statutes】

31 “Mental health condition” means a condition defined to be
32 consistent with generally recognized independent standards of
33 current medical practice referenced in the current version of the
34 Diagnostic and Statistical Manual of Mental Disorders¹.

35 "Same terms and conditions" means that the insurer cannot apply
36 ¹**【different】** more restrictive non-qualitative limitations, such as
37 utilization review and other criteria or more quantitative limitations
38 such as¹ copayments, deductibles ¹, aggregate or annual limits¹ or
39 benefit limits to 【biologically-based mental health】 ¹**【behavioral**
40 **health care services】** mental health condition and substance use
41 disorder¹ benefits than those applied to ¹substantially all¹ other
42 medical or surgical benefits.

43 ¹“Substance use disorder” means a disorder defined to be
44 consistent with generally recognized independent standards of
45 current medical practice referenced in the most current version of
46 the Diagnostic and Statistical Manual of Mental Disorders.¹

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 ~~¹d. Nothing in this section shall reduce the requirement for an~~
12 ~~insurer to provide benefits pursuant to section 5 of P.L.2017, c.28~~
13 ~~(C.17B:27-46.1nn).¹~~
14 (cf: P.L.1999, c.106, s.5)

15
16 6. Section 6 of P.L.1999, c.106 (C.17B:27A-7.5) is amended to
17 read as follows:

18 6. a. (1) Every individual health benefits plan that provides
19 hospital or medical expense benefits and is delivered, issued,
20 executed or renewed in this State pursuant to P.L.1992, c.161
21 (C.17B:27A-2 et seq.) or approved for issuance or renewal in this
22 State on or after the effective date of this act shall provide benefits
23 for ~~biologically-based mental illness~~ ~~¹behavioral health care~~
24 ~~services~~ ~~mental health conditions and substance use disorders¹~~
25 under the same terms and conditions as provided for any other
26 sickness under the health benefits plan ~~and shall meet the~~
27 ~~requirements of the federal Paul Wellstone and Pete Domenici~~
28 ~~Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.~~
29 ~~18031(j), and any amendments to, and federal guidance or~~
30 ~~regulations issued under that act, including 45 C.F.R. Parts 146 and~~
31 ~~147 and 45 C.F.R. 156.115(a)(3). ["Biologically-based mental~~
32 ~~illness"]~~

33 (2) ~~As used in this section:~~

34 ~~¹["Behavioral health care services" means]¹ [a mental or~~
35 nervous condition that is caused by a biological disorder of the
36 brain and results in a clinically significant or psychological
37 syndrome or pattern that substantially limits the functioning of the
38 person with the illness, including but not limited to, schizophrenia,
39 schizoaffective disorder, major depressive disorder, bipolar
40 disorder, paranoia and other psychotic disorders, obsessive-
41 compulsive disorder, panic disorder and pervasive developmental
42 disorder or autism] ~~¹procedures or services rendered by a health~~
43 ~~care provider or health care facility for the treatment of mental~~
44 ~~illness, emotional disorders, pervasive developmental disorder and~~
45 ~~autism, or drug or alcohol abuse.~~

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

1 “Health care provider” means a health care professional licensed
2 pursuant to Title 45 of the Revised Statutes.]

3 “Mental health condition” means a condition defined to be
4 consistent with generally recognized independent standards of
5 current medical practice referenced in the current version of the
6 Diagnostic and Statistical Manual of Mental Disorders¹.

7 "Same terms and conditions" means that the plan cannot apply
8 ¹[different] more restrictive non-qualitative limitations, such as
9 utilization review and other criteria or more quantitative limitations
10 such as¹ copayments, deductibles ¹, aggregate or annual limits¹ or
11 benefit limits to [biologically-based mental health] ¹[behavioral
12 health care services] mental health condition and substance use
13 disorder¹ benefits than those applied to ¹substantially all¹ other
14 medical or surgical benefits.

15 ¹“Substance use disorder” means a disorder defined to be
16 consistent with generally recognized independent standards of
17 current medical practice referenced in the most current version of
18 the Diagnostic and Statistical Manual of Mental Disorders.¹

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

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

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

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

30 ¹d. Nothing in this section shall reduce the requirement for a
31 plan to provide benefits pursuant to section 6 of P.L.2017, c.28
32 (C.17B:27A-7.21).¹

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

34

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

37 7. a. (1) Every small employer health benefits plan that
38 provides hospital or medical expense benefits and is delivered,
39 issued, executed or renewed in this State pursuant to P.L.1992,
40 c.162 (C.17B:27A-17 et seq.) or approved for issuance or renewal
41 in this State on or after the effective date of this act shall provide
42 benefits for [biologically-based mental illness] ¹[behavioral health
43 care services] mental health conditions and substance use
44 disorders¹ under the same terms and conditions as provided for any
45 other sickness under the health benefits plan and shall meet the
46 requirements of the federal Paul Wellstone and Pete Domenici
47 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.

1 18031(j), and any amendments to, and federal guidance or
2 regulations issued under that act, including 45 C.F.R. Parts 146 and
3 147 and 45 C.F.R. 156.115(a)(3). ["Biologically-based mental
4 illness"]

5 (2) As used in this section:

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

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

20 "Health care provider" means a health care professional licensed
21 pursuant to Title 45 of the Revised Statutes]

22 "Mental health condition" means a condition defined to be
23 consistent with generally recognized independent standards of
24 current medical practice referenced in the current version of the
25 Diagnostic and Statistical Manual of Mental Disorders¹.

26 "Same terms and conditions" means that the plan cannot apply
27 ¹[different] more restrictive non-qualitative limitations, such as
28 utilization review and other criteria or more quantitative limitations
29 such as¹ copayments, deductibles ¹, aggregate or annual limits¹ or
30 benefit limits to [biologically-based mental health] ¹[behavioral
31 health care services] mental health condition and substance use
32 disorder¹ benefits than those applied to ¹substantially all¹ other
33 medical or surgical benefits.

34 ¹"Substance use disorder" means a disorder defined to be
35 consistent with generally recognized independent standards of
36 current medical practice referenced in the most current version of
37 the Diagnostic and Statistical Manual of Mental Disorders.¹

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

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

42 (2) which providers shall be entitled to reimbursement for
43 providing services for mental illness under the health benefits
44 plan.] (Deleted by amendment, P.L. , c.) (pending before the
45 Legislature as this bill)

1 c. The provisions of this section shall apply to all health
2 benefits plans in which the carrier has reserved the right to change
3 the premium.

4 ¹d. Nothing in this section shall reduce the requirement for a
5 plan to provide benefits pursuant to section 7 of P.L.2017, c.28
6 (C.17B:27A-19.25).¹
7 (cf: P.L.1999, c.106, s.7)

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

11 8. a. (1) Every enrollee agreement delivered, issued, executed,
12 or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et
13 seq.) or approved for issuance or renewal in this State by the
14 Commissioner of Banking and Insurance, on or after the effective
15 date of this act shall provide health care services for **【biologically-**
16 **based mental illness】** ¹**【behavioral health care services】** mental
17 health conditions and substance use disorders¹ under the same terms
18 and conditions as provided for any other sickness under the
19 agreement 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 ¹**【"Behavioral health care services" means】** ¹ **【a mental or**
27 **nervous condition that is caused by a biological disorder of the**
28 **brain and results in a clinically significant or psychological**
29 **syndrome or pattern that substantially limits the functioning of the**
30 **person with 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】** ¹**【procedures or services rendered by a health**
35 **care provider or health care facility for the treatment of mental**
36 **illness, emotional disorders, pervasive developmental disorder and**
37 **autism, or drug or alcohol abuse.**

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

40 "Health care provider" means a health care professional licensed
41 pursuant to Title 45 of the Revised Statutes】

42 "Mental health condition" means a condition defined to be
43 consistent with generally recognized independent standards of
44 current medical practice referenced in the current version of the
45 Diagnostic and Statistical Manual of Mental Disorders¹.

46 "Same terms and conditions" means that the health maintenance
47 organization cannot apply ¹**【different】** more restrictive non-

1 qualitative limitations, such as utilization review and other criteria
2 or more quantitative limitations such as¹ copayments, deductibles,
3 aggregate or annual limits¹ or health care services limits to
4 **【biologically-based mental】** ¹**【behavioral health care】** mental
5 health condition and substance use disorder¹ services than those
6 applied to substantially all¹ other medical or surgical health care
7 services.

8 “Substance use disorder” means a disorder defined to be
9 consistent with generally recognized independent standards of
10 current medical practice referenced in the most current version of
11 the Diagnostic and Statistical Manual of Mental Disorders.¹

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

14 (1) whether a mental health care service meets the medical
15 necessity standard as established by the health maintenance
16 organization; or

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

21 c. The provisions of this section shall apply to enrollee
22 agreements in which the health maintenance organization has
23 reserved the right to change the premium.

24 “d. Nothing in this section shall reduce the requirement for a
25 health maintenance organization to provide benefits pursuant to
26 section 8 of P.L.2017, c.28 (C.26:2J-4.39).¹
27 (cf: P.L.2012, c.17, s.271)

28
29 9. Section 1 of P.L.1999, c.441 (C.52:14-17.29d) is amended to
30 read as follows:

31 1. As used in this act:

32 **【“Biologically-based mental illness”】** ¹**【“Behavioral health care**
33 **services” means】**¹ **【a mental or nervous condition that is caused by**
34 **a biological disorder of the brain and results in a clinically**
35 **significant or psychological syndrome or pattern that substantially**
36 **limits the functioning of the person with the illness including, but**
37 **not limited to, schizophrenia, schizoaffective disorder, major**
38 **depressive disorder, bipolar disorder, paranoia and other psychotic**
39 **disorders, obsessive-compulsive disorder, panic disorder and**
40 **pervasive developmental disorder or autism】** ¹**【procedures or**
41 **services rendered by a health care provider or health care facility**
42 **for the treatment of mental illness, emotional disorders, pervasive**
43 **developmental disorder and autism, or drug or alcohol abuse.】**¹

44 "Carrier" means an insurance company, health service
45 corporation, hospital service corporation, medical service
46 corporation or health maintenance organization authorized to issue
47 health benefits plans in this State.

1 ¹["Health care facility" means the same as defined in section 2
2 of P.L.1971, c.136 (C.26:2H-2).

3 "Health care provider" means a health care professional licensed
4 pursuant to Title 45 of the Revised Statutes.]

5 "Mental health condition" means a condition defined to be
6 consistent with generally recognized independent standards of
7 current medical practice referenced in the current version of the
8 Diagnostic and Statistical Manual of Mental Disorders.¹

9 "Same terms and conditions" means that a carrier cannot apply
10 ¹["different] more restrictive non-qualitative limitations, such as
11 utilization review and other criteria or more quantitative limitations
12 such as¹ copayments, deductibles ¹, aggregate or annual limits¹ or
13 benefit limits to [biologically-based mental health] ¹["behavioral
14 health care services] mental health condition and substance use
15 disorder¹ benefits than those applied to ¹substantially all¹ other
16 medical or surgical benefits.

17 ¹"Substance use disorder" means a disorder defined to be
18 consistent with generally recognized independent standards of
19 current medical practice referenced in the most current version of
20 the Diagnostic and Statistical Manual of Mental Disorders.¹

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

22
23 10. Section 2 of P.L.1999, c.441 (C.52:14-17.29e) is amended to
24 read as follows:

25 2. a. The State Health Benefits Commission shall ensure that
26 every contract purchased by the commission on or after the
27 effective date of this act that provides hospital or medical expense
28 benefits shall provide coverage for [biologically-based mental
29 illness] ¹["behavioral health care services] mental health conditions
30 and substance use disorders¹ under the same terms and conditions
31 as provided for any other sickness under the contract and shall meet
32 the requirements of the federal Paul Wellstone and Pete Domenici
33 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.
34 18031(j), and any amendments to, and federal guidance or
35 regulations issued under that act, including 45 C.F.R. Parts 146 and
36 147 and 45 C.F.R. 156.115(a)(3).

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.

43 c.] The commission shall provide notice to employees regarding
44 the coverage required by this section in accordance with this
45 subsection and regulations promulgated by the Commissioner of
46 Health [and Senior Services] pursuant to the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice

1 shall be in writing and prominently positioned in any literature or
2 correspondence and shall be transmitted at the earliest of: (1) the
3 next mailing to the employee; (2) the yearly informational packet
4 sent to the employee; or (3) July 1, 2000. The commission shall
5 also ensure that the carrier under contract with the commission,
6 upon receipt of information that a covered person is receiving
7 treatment for **【a biologically-based mental illness】** ¹**【behavioral**
8 **health care services】** a mental health condition or substance use
9 disorder¹, shall promptly notify that person of the coverage required
10 by this section.

11 ¹c. Nothing in this section shall reduce the requirement for a
12 carrier to provide benefits pursuant to section 9 of P.L.2017, c.28
13 (C.52:14-17.29u).¹
14 (cf: P.L.1999, c.441, s.2)
15

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

17 ¹**【“Behavioral health care services” means procedures or services**
18 rendered by a health care provider or health care facility for the
19 treatment of mental illness, emotional disorders, pervasive
20 developmental disorder and autism, or drug or alcohol abuse.】¹

21 “Benefit limits” includes both quantitative treatment limitations
22 and non-quantitative treatment limitations.

23 “Carrier” means an insurance company, health service
24 corporation, hospital service corporation, medical service
25 corporation, or health maintenance organization authorized to issue
26 health benefits plans in this State or any entity contracted to
27 administer health benefits in connection with the State Health
28 Benefits Program or School Employees’ Health Benefits Program.

29 “Classification of benefits” means the classifications of benefits
30 found at 45 C.F.R. 146.136(c)(2)(ii)(A) and 45 C.F.R.
31 146.136(c)(3)(iii).

32 “Department” means the Department of Banking and Insurance.

33 ¹“Mental health condition” means a condition defined to be
34 consistent with generally recognized independent standards of
35 current medical practice referenced in the current version of the
36 Diagnostic and Statistical Manual of Mental Disorders.¹

37 “Non-quantitative treatment limitations” or “NQTL” means
38 processes, strategies, or evidentiary standards, or other factors that
39 are not expressed numerically, but otherwise limit the scope or
40 duration of benefits for treatment. NQTLs shall include, but shall
41 not be limited to:

42 (1) Medical management standards limiting or excluding
43 benefits based on medical necessity or medical appropriateness, or
44 based on whether the treatment is experimental or investigative;

45 (2) Formulary design for prescription drugs;

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

- 1 (4) Standards for provider admission to participate in a network,
2 including reimbursement rates;
 - 3 (5) Plan methods for determining usual, customary, and
4 reasonable charges;
 - 5 (6) Refusal to pay for higher-cost therapies until it can be shown
6 that a lower-cost therapy is not effective, also known as fail-first
7 policies or step therapy protocols;
 - 8 (7) Exclusions based on failure to complete a course of
9 treatment;
 - 10 (8) Restrictions based on geographic location, facility type,
11 provider specialty, and other criteria that limit the scope or duration
12 of benefits for services provided under the plan or coverage;
 - 13 (9) In and out-of-network geographic limitations;
 - 14 (10) Limitations on inpatient services for situations where the
15 participant is a threat to self or others;
 - 16 (11) Exclusions for court-ordered and involuntary holds;
 - 17 (12) Experimental treatment limitations;
 - 18 (13) Service coding;
 - 19 (14) Exclusions for services provided by a licensed professional
20 who provides ¹**【behavioral health care】** mental health condition or
21 substance use disorder¹ services;
 - 22 (15) Network adequacy; and
 - 23 (16) Provider reimbursement rates.
- 24 ¹“Substance use disorder” means a disorder defined to be
25 consistent with generally recognized independent standards of
26 current medical practice referenced in the most current version of
27 the Diagnostic and Statistical Manual of Mental Disorders.¹
- 28 b. A carrier shall approve a request for an in-plan exception if
29 the carrier’s network does not have any providers who are qualified,
30 accessible and available to perform the specific medically necessary
31 service. A carrier shall communicate the availability of in-plan
32 exceptions:
 - 33 (1) on its website where lists of network providers are
34 displayed; and
 - 35 (2) to beneficiaries when they call the carrier to inquire about
36 network providers.
 - 37 c. A carrier that provides hospital or medical expense benefits
38 through individual or group contracts shall submit an annual report
39 to the department on or before March 1 ¹**【that contains】** . The
40 annual report shall contain, to the extent that the commissioner
41 determines practicable,¹ the following information:
 - 42 (1) A description of the process used to develop or select the
43 medical necessity criteria for mental health benefits, the process
44 used to develop or select the medical necessity criteria for substance
45 use disorder benefits, and the process used to develop or select the
46 medical necessity criteria for medical and surgical benefits;
 - 47 (2) Identification of all NQTLs that are applied to mental health
48 benefits, all NQTLs that are applied to substance use disorder

1 benefits, and all NQTLs that are applied to medical and surgical
2 benefits, including, but not limited to, those listed in subsection a.
3 of this section;

4 (3) The results of an analysis that demonstrates that for the
5 medical necessity criteria described in paragraph (1) of this
6 subsection and for selected NQTLs identified in paragraph (2) of
7 this subsection, as written and in operation, the processes,
8 strategies, evidentiary standards, or other factors used to apply the
9 medical necessity criteria and selected NQTLs to ¹【behavioral
10 health care】 mental health condition and substance use disorder¹
11 benefits are comparable to, and are no more stringently applied than
12 the processes, strategies, evidentiary standards, or other factors used
13 to apply the medical necessity criteria and selected NQTLs, as
14 written and in operation, to medical and surgical benefits. A
15 determination of which selected NQTLs require analysis will be
16 determined by the department; at a minimum, the results of the
17 analysis shall entail the following, provided that some NQTLs may
18 not necessitate all of the steps described below:

19 (a) identify the factors used to determine that an NQTL will
20 apply to a benefit, including factors that were considered but
21 rejected;

22 (b) identify and define the specific evidentiary standards ¹, if
23 applicable,¹ used to define the factors and any other evidentiary
24 standards relied upon in designing each NQTL;

25 (c) provide the comparative analyses, including the results of
26 the analyses, performed to determine that the processes and
27 strategies used to design each NQTL, as written, for mental health
28 and substance use disorder benefits are comparable to and applied
29 no more stringently than the processes and strategies used to design
30 each NQTL as written for medical and surgical benefits;

31 (d) provide the comparative analyses, including the results of
32 the analyses, performed to determine that the processes and
33 strategies used to apply each NQTL, in operation, for mental health
34 and substance use disorder benefits are comparable to and applied
35 no more stringently than the processes or strategies used to apply
36 each NQTL in operation for medical and surgical benefits; and

37 (e) disclose the specific findings and conclusions reached by the
38 carrier that the results of the analyses above indicate that the carrier
39 is in compliance with this section and the Paul Wellstone and Pete
40 Domenici Mental Health Parity and Addiction Equity Act of 2008,
41 42 U.S.C. 18031(j), and its implementing and related regulations,
42 which includes 45 C.F.R. 146.136, 45 C.F.R. 147.160, and 45
43 C.F.R. 156.115(a)(3); and

44 (4) Any other information necessary to clarify data provided in
45 accordance with this section requested by the Commissioner of
46 Banking and Insurance including information that may be
47 proprietary or have commercial value, provided that no proprietary
48 information shall be made publicly available by the department.

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

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

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

30 (3) Accepting, evaluating, and responding to complaints
31 regarding violations.

32 (4) Maintaining and regularly reviewing for possible parity
33 violations a publically available consumer complaint log regarding
34 ¹behavioral health care mental health condition and substance use
35 disorder¹ coverage, provided that the names of specific carriers will
36 be redacted and not disclosed on the complaint log.

37 (5) The commissioner shall adopt rules as may be necessary to
38 effectuate any provisions of this section and the Paul Wellstone and
39 Pete Domenici Mental Health Parity and Addiction Equity Act of
40 2008 that relate to the business of insurance.

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

44 (1) Describe the methodology the department is using to check
45 for compliance with the Paul Wellstone and Pete Domenici Mental
46 Health Parity and Addiction Equity Act of 2008, 42 U.S.C 18031(j),
47 and any federal regulations or guidance relating to the compliance
48 and oversight of that act.

- 1 (2) Describe the methodology the department is using to check
2 for compliance with P.L.1999, c.106 (C.17:48-6v et al.) and section
3 2 of P.L.1999, c.441 (C.52:14-17.29e).
- 4 (3) Identify market conduct examinations conducted or
5 completed during the preceding 12-month period regarding
6 compliance with parity in mental health and substance use disorder
7 benefits under state and federal laws and summarize the results of
8 such market conduct examinations. This shall include:
- 9 (a) The number of market conduct examinations initiated and
10 completed;
- 11 (b) The benefit classifications examined by each market conduct
12 examination;
- 13 (c) The subject matters of each market conduct examination,
14 including quantitative and non-quantitative treatment limitations;
- 15 (d) A summary of the basis for the final decision rendered in
16 each market conduct examination; and
- 17 (e) Individually identifiable information shall be excluded from
18 the reports consistent with state and Federal privacy protections.
- 19 (4) Detail any educational or corrective actions the department
20 has taken to ensure compliance with Paul Wellstone and Pete
21 Domenici Mental Health Parity and Addiction Equity Act of 2008,
22 42 U.S.C 18031(j), P.L.1999, c.106 (C.17:48-6v et al.) and section
23 2 of P.L.1999, c.441 (C.52:14-17.29e).
- 24 (5) Detail the department's educational approaches relating to
25 informing the public about ¹**behavioral health care** mental health
26 condition and substance use disorder¹ parity protections under State
27 and federal law.
- 28 (6) Be written in non-technical, readily understandable language
29 and shall be made available to the public by, among such other
30 means as the department finds appropriate, posting the report on the
31 department's website.
- 32 f. The department shall post on its Internet website a report
33 disclosing the department's conclusions as to whether the analyses
34 collected from the carriers as specified in paragraph (3) of
35 subsection c. of this section demonstrate compliance with the
36 Mental Health Parity and Addiction Equity Act of 2008 and its
37 implementing regulations, specifically including whether or not
38 there is compliance with 45 C.F.R. 146.136(c)(4). The name and
39 identity of carriers shall be confidential, shall not be made public by
40 the department, and shall not be subject to public inspection.
- 41
- 42 12. This act shall take effect on the 60th day after enactment and
43 shall apply to all contracts and policies delivered, issued, executed
44 or renewed on or after that date.