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STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED JANUARY 17, 2019

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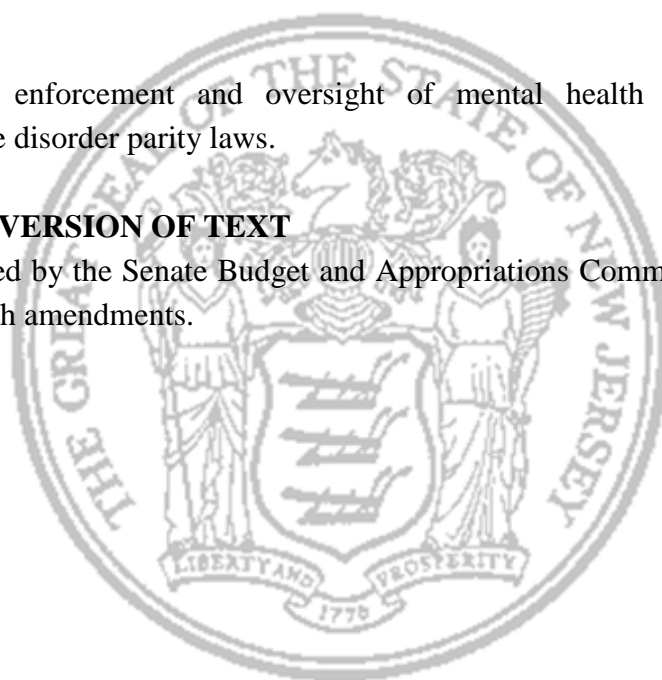
**Senators Brown, Gopal, Singleton, Bateman, A.R.Bucco, Diegnan, Turner,
Pou, Cardinale, Greenstein and Lagana**

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 disorders¹ 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.]

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:

¹ Senate SBA committee amendments adopted March 18, 2019.

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

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

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

17 b. ~~Nothing in this section shall be construed to change the~~
18 manner in which a hospital service corporation determines:

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

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

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

29 ¹d. Nothing in this section shall reduce the requirement for a
30 hospital service corporation to provide benefits pursuant to section 1 of
31 P.L.2017, c.28 (C.17:48-6nn).¹
32 (cf: P.L.1999, c.106, s.1)

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

36 2. a. (1) Every individual and group medical service
37 corporation contract that provides hospital or medical expense
38 benefits that is delivered, issued, executed or renewed in this State
39 pursuant to P.L.1940, c.74 (C.17:48A-1 et seq.), or approved for
40 issuance or renewal in this State by the Commissioner of Banking
41 and Insurance, on or after the effective date of this act shall provide
42 coverage for biologically-based mental illness ¹~~behavioral~~
43 ~~health 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 contract and shall meet the requirements of
46 the federal Paul Wellstone and Pete Domenici Mental Health Parity

1 and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any
2 amendments to, and federal guidance or regulations issued under
3 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
4 156.115(a)(3). ["Biologically-based mental 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 current
24 medical practice referenced in the current version of the Diagnostic
25 and Statistical Manual of Mental Disorders¹.

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

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

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

1 c. The provisions of this section shall apply to all contracts in
2 which the medical service corporation has reserved the right to
3 change the premium.

4 ¹d. Nothing in this section shall reduce the requirement for a
5 medical service corporation to provide benefits pursuant to section
6 2 of P.L.2017, c.28 (C.17:48A-7kk).¹
7 (cf: P.L.1999, c.106, s.2)

8
9 3. Section 3 of P.L.1999, c.106 (C.17:48E-35.20) is amended
10 to read as follows:

11 3. a. (1) Every individual and group health service corporation
12 contract that provides hospital or medical expense benefits and is
13 delivered, issued, executed or renewed in this State pursuant to
14 P.L.1985, c.236 (C.17:48E-1 et seq.), or approved for issuance or
15 renewal in this State by the Commissioner of Banking and
16 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 current
45 medical practice referenced in the current version of the Diagnostic
46 and Statistical Manual of Mental Disorders¹.

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

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

13 b. ~~["Nothing in this section shall be construed to change the~~
14 ~~manner in which the health service corporation determines:~~

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

18 (2) which providers shall be entitled to reimbursement for
19 providing services for mental illness under the contract. ~~["(Deleted~~
20 ~~by amendment, P.L. , c.)(pending before the Legislature as~~
21 ~~this bill)~~

22 c. The provisions of this section shall apply to all contracts in
23 which the health service corporation has reserved the right to
24 change the premium.

25 ¹d. Nothing in this section shall reduce the requirement for a
26 health service corporation to provide benefits pursuant to section 3
27 of P.L.2017, c.28 (C.17:48E-35.38).¹
28 (cf: P.L.1999, c.106, s.3)

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

32 4. a. (1) Every individual health insurance policy that
33 provides hospital or medical expense benefits and is delivered,
34 issued, executed or renewed in this State pursuant to chapter 26 of
35 Title 17B of the New Jersey Statutes, or approved for issuance or
36 renewal in this State by the Commissioner of Banking and
37 Insurance, on or after the effective date of this act shall provide
38 coverage for ~~["biologically-based mental illness"]~~ ¹~~["behavioral~~
39 ~~health care services"]~~ mental health conditions and substance use
40 disorders¹ under the same terms and conditions as provided for any
41 other sickness under the contract and shall meet the requirements of
42 the federal Paul Wellstone and Pete Domenici Mental Health Parity
43 and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any
44 amendments to, and federal guidance or regulations issued under
45 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
46 156.115(a)(3). ["Biologically-based mental illness"]

1 (2) As used in this section:

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

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

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

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

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

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

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

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

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

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

44 ¹d. Nothing in this section shall reduce the requirement for an

insurer to provide benefits pursuant to section 4 of P.L.2017, c.28
(C.17B:26-2.1hh).¹

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

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

5. a. (1) Every group health insurance policy that provides
hospital or medical expense benefits and is delivered, issued,
executed or renewed in this State pursuant to chapter 27 of Title
17B of the New Jersey Statutes, or approved for issuance or renewal
in this State by the Commissioner of Banking and Insurance, on or
after the effective date of this act shall provide benefits for
[biologically-based mental illness] ¹[behavioral health care
services] mental health conditions and substance use disorders¹ under
the same terms and conditions as provided for any other sickness
under the policy and shall meet the requirements of the federal Paul
Wellstone and Pete Domenici Mental Health Parity and Addiction
Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,
and federal guidance or regulations issued under that act, including
45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).

["Biologically-based mental illness"]

(2) As used in this section:

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

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

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

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

"Same terms and conditions" means that the insurer cannot apply
¹[different] more restrictive non-qualitative limitations, such as
utilization review and other criteria or more quantitative limitations
such as¹ copayments, deductibles ¹, aggregate or annual limits¹ or
benefit limits to [biologically-based mental health] ¹[behavioral

1 health care services】 mental health condition and substance use
2 disorder¹ benefits than those applied to ‘substantially all’ other
3 medical or surgical benefits.

4 ‘Substance use disorder’ means a disorder defined to be
5 consistent with generally recognized independent standards of
6 current medical practice referenced in the most current version of
7 the Diagnostic and Statistical Manual of Mental Disorders.¹

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

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

12 (2) which providers shall be entitled to reimbursement for
13 providing services for mental illness under the policy.】 (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 policies in
17 which the insurer has reserved the right to change the premium.

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

22
23 6. Section 6 of P.L.1999, c.106 (C.17B:27A-7.5) is amended to
24 read as follows:

25 6. a. (1) Every individual health benefits plan that provides
26 hospital or medical expense benefits and is delivered, issued,
27 executed or renewed in this State pursuant to P.L.1992, c.161
28 (C.17B:27A-2 et seq.) or approved for issuance or renewal in this
29 State on or after the effective date of this act shall provide benefits
30 for 【biologically-based mental illness】 ‘【behavioral health care
31 services】 mental health conditions and substance use disorders’¹ under
32 the same terms and conditions as provided for any other sickness
33 under the health benefits plan and shall meet the requirements of
34 the federal Paul Wellstone and Pete Domenici Mental Health Parity
35 and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any
36 amendments to, and federal guidance or regulations issued under
37 that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
38 156.115(a)(3). 【"Biologically-based mental illness"】

39 (2) As used in this section:

40 ‘【Behavioral health care services】’ means】’¹ **【a mental or**
41 **nervous condition that is caused by a biological disorder of the**
42 **brain and results in a clinically significant or psychological**
43 **syndrome or pattern that substantially limits the functioning of the**
44 **person with 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] ¹procedures or services rendered by a health
2 care provider or health care facility for the treatment of mental
3 illness, emotional disorders, pervasive developmental disorder and
4 autism, or drug or alcohol abuse.

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

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

9 “Mental health condition” means a condition defined to be
10 consistent with generally recognized independent standards of current
11 medical practice referenced in the current version of the Diagnostic
12 and Statistical Manual of Mental Disorders¹.

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

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

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

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

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

33 c. The provisions of this section shall apply to all health
34 benefits plans in which the carrier has reserved the right to change
35 the premium.

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

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

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

43 7. a. (1) Every small employer health benefits plan that
44 provides hospital or medical expense benefits and is delivered,
45 issued, executed or renewed in this State pursuant to P.L.1992,
46 c.162 (C.17B:27A-17 et seq.) or approved for issuance or renewal
47 in this State on or after the effective date of this act shall provide

1 benefits for **biologically-based mental illness** ¹**behavioral health**
2 **care services** mental health conditions and substance use disorders¹
3 under the same terms and conditions as provided for any other
4 sickness under the health benefits plan and shall meet the
5 requirements of the federal Paul Wellstone and Pete Domenici
6 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.
7 18031(j), and any amendments to, and federal guidance or
8 regulations issued under that act, including 45 C.F.R. Parts 146 and
9 147 and 45 C.F.R. 156.115(a)(3). **Biologically-based mental**
10 **illness"**

11 (2) As used in this section:

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

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

26 "Health care provider" means a health care professional licensed
27 pursuant to Title 45 of the Revised Statutes

28 "Mental health condition" means a condition defined to be
29 consistent with generally recognized independent standards of current
30 medical practice referenced in the current version of the Diagnostic
31 and Statistical Manual of Mental Disorders¹.

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

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

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

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

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

7 c. The provisions of this section shall apply to all health
8 benefits plans in which the carrier has reserved the right to change
9 the premium.

10 ¹d. Nothing in this section shall reduce the requirement for a
11 plan to provide benefits pursuant to section 7 of P.L.2017, c.28
12 (C.17B:27A-19.25).¹

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

14
15 8. Section 8 of P.L.1999, c.106 (C.26:2J-4.20) is amended to
16 read as follows:

17 8. a. (1) Every enrollee agreement delivered, issued, executed,
18 or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et
19 seq.) or approved for issuance or renewal in this State by the
20 Commissioner of Banking and Insurance, on or after the effective
21 date of this act shall provide health care services for 【biologically-
22 based mental illness】 ¹【behavioral health care services】 mental
23 health conditions and substance use disorders¹ under the same terms
24 and conditions as provided for any other sickness under the
25 agreement and shall meet the requirements of the federal Paul
26 Wellstone and Pete Domenici Mental Health Parity and Addiction
27 Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to,
28 and federal guidance or regulations issued under that act, including
29 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3).
30 **【"Biologically-based mental illness"】**

31 (2) As used in this section:

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

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

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

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

5 “Same terms and conditions” means that the health maintenance
6 organization cannot apply ¹**different** more restrictive non-
7 qualitative limitations, such as utilization review and other criteria or
8 more quantitative limitations such as¹ copayments, deductibles, ¹,
9 aggregate or annual limits¹ or health care services limits to
10 **biologically-based mental** ¹**behavioral health care** mental health
11 condition and substance use disorder¹ services than those applied to
12 ¹substantially all¹ other medical or surgical health care services.

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

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

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

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

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

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

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

36 1. As used in this act:

37 **“Biologically-based mental illness”** ¹**“Behavioral health care**
38 services” means¹ **[a mental or nervous condition that is caused by**
39 a biological disorder of the brain and results in a clinically
40 significant or psychological syndrome or pattern that substantially
41 limits the functioning of the person with the illness including, but
42 not limited to, schizophrenia, schizoaffective disorder, major
43 depressive disorder, bipolar disorder, paranoia and other psychotic
44 disorders, obsessive-compulsive disorder, panic disorder and
45 pervasive developmental disorder or autism] ¹**procedures or**
46 services rendered by a health care provider or health care facility

1 for the treatment of mental illness, emotional disorders, pervasive
2 developmental disorder and autism, or drug or alcohol abuse.】¹

3 "Carrier" means an insurance company, health service
4 corporation, hospital service corporation, medical service
5 corporation or health maintenance organization authorized to issue
6 health benefits plans in this State.

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

9 "Health care provider" means a health care professional licensed
10 pursuant to Title 45 of the Revised Statutes.】

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

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

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

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

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

31 2. a. The State Health Benefits Commission shall ensure that
32 every contract purchased by the commission on or after the
33 effective date of this act that provides hospital or medical expense
34 benefits shall provide coverage for 【biologically-based mental
35 illness】 ¹【behavioral health care services】 mental health conditions
36 and substance use disorders¹ under the same terms and conditions as
37 provided for any other sickness under the contract and shall meet
38 the requirements of the federal Paul Wellstone and Pete Domenici
39 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.
40 18031(j), and any amendments to, and federal guidance or
41 regulations issued under that act, including 45 C.F.R. Parts 146 and
42 147 and 45 C.F.R. 156.115(a)(3).

43 b. 【Nothing in this section shall be construed to change the
44 manner in which a carrier determines:

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

(2) which providers shall be entitled to reimbursement for providing services for mental illness under the contract.

c. The commission shall provide notice to employees regarding the coverage required by this section in accordance with this subsection and regulations promulgated by the Commissioner of Health [and Senior Services] pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice shall be in writing and prominently positioned in any literature or correspondence and shall be transmitted at the earliest of: (1) the next mailing to the employee; (2) the yearly informational packet sent to the employee; or (3) July 1, 2000. The commission shall also ensure that the carrier under contract with the commission, upon receipt of information that a covered person is receiving treatment for [a biologically-based mental illness] ¹[behavioral health care services] a mental health condition or substance use disorder¹, shall promptly notify that person of the coverage required by this section.

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

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

¹["Behavioral health care services" means procedures or services rendered by a health care provider or health care facility for the treatment of mental illness, emotional disorders, pervasive developmental disorder and autism, or drug or alcohol abuse.]¹

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

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

"Classification of benefits" means the classifications of benefits found at 45 C.F.R. 146.136(c)(2)(ii)(A) and 45 C.F.R. 146.136(c)(3)(iii).

"Department" means the Department of Banking and Insurance.

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

"Non-quantitative treatment limitations" or "NQTL" means processes, strategies, or evidentiary standards, or other factors that are not expressed numerically, but otherwise limit the scope or

1 duration of benefits for treatment. NQTLs shall include, but shall
2 not be limited to:

3 (1) Medical management standards limiting or excluding
4 benefits based on medical necessity or medical appropriateness, or
5 based on whether the treatment is experimental or investigative;

6 (2) Formulary design for prescription drugs;

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

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

11 (5) Plan methods for determining usual, customary, and
12 reasonable charges;

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

16 (7) Exclusions based on failure to complete a course of
17 treatment;

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

21 (9) In and out-of-network geographic limitations;

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

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

25 (12) Experimental treatment limitations;

26 (13) Service coding;

27 (14) Exclusions for services provided by a licensed professional
28 who provides ¹**["behavioral health care"]** mental health condition or
29 substance use disorder¹ services;

30 (15) Network adequacy; and

31 (16) Provider reimbursement rates.

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. A carrier shall approve a request for an in-plan exception if
37 the carrier's network does not have any providers who are qualified,
38 accessible and available to perform the specific medically necessary
39 service. A carrier shall communicate the availability of in-plan
40 exceptions:

41 (1) on its website where lists of network providers are
42 displayed; and

43 (2) to beneficiaries when they call the carrier to inquire about
44 network providers.

45 c. A carrier that provides hospital or medical expense benefits
46 through individual or group contracts shall submit an annual report
47 to the department on or before March 1 ¹**["that contains"]** . The

1 annual report shall contain, to the extent that the commissioner
2 determines practicable,¹ the following information:

3 (1) A description of the process used to develop or select the
4 medical necessity criteria for mental health benefits, the process
5 used to develop or select the medical necessity criteria for substance
6 use disorder benefits, and the process used to develop or select the
7 medical necessity criteria for medical and surgical benefits;

8 (2) Identification of all NQTLs that are applied to mental health
9 benefits, all NQTLs that are applied to substance use disorder
10 benefits, and all NQTLs that are applied to medical and surgical
11 benefits, including, but not limited to, those listed in subsection a.
12 of this section;

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

28 (a) identify the factors used to determine that an NQTL will
29 apply to a benefit, including factors that were considered but
30 rejected;

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

34 (c) provide the comparative analyses, including the results of
35 the analyses, performed to determine that the processes and
36 strategies used to design each NQTL, as written, for mental health
37 and substance use disorder benefits are comparable to and applied
38 no more stringently than the processes and strategies used to design
39 each NQTL as written for medical and surgical benefits;

40 (d) provide the comparative analyses, including the results of
41 the analyses, performed to determine that the processes and
42 strategies used to apply each NQTL, in operation, for mental health
43 and substance use disorder benefits are comparable to and applied
44 no more stringently than the processes or strategies used to apply
45 each NQTL in operation for medical and surgical benefits; and

46 (e) disclose the specific findings and conclusions reached by the
47 carrier that the results of the analyses above indicate that the carrier

1 is in compliance with this section and the Paul Wellstone and Pete
2 Domenici Mental Health Parity and Addiction Equity Act of 2008,
3 42 U.S.C. 18031(j), and its implementing and related regulations,
4 which includes 45 C.F.R. 146.136, 45 C.F.R. 147.160, and 45
5 C.F.R. 156.115(a)(3); and

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

11 d. The department shall implement and enforce applicable
12 provisions of the Paul Wellstone and Pete Domenici Mental Health
13 Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), any
14 amendments to, and federal guidance or regulations issued under
15 that act, including 45 C.F.R. Parts 146 and 147, 45 C.F.R.
16 156.115(a)(3), P.L.1999, c.106 (C.17:48-6v et al.), and section 2 of
17 P.L.1999, c.441 (C.52:14-17.29e), which includes:

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

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

40 (3) Accepting, evaluating, and responding to complaints
41 regarding violations.

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

47 (5) The commissioner shall adopt rules as may be necessary to
48 effectuate any provisions of this section and the Paul Wellstone and

1 Pete Domenici Mental Health Parity and Addiction Equity Act of
2 2008 that relate to the business of insurance.

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

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

11 (2) Describe the methodology the department is using to check
12 for compliance with P.L.1999, c.106 (C.17:48-6v et al.) and section
13 2 of P.L.1999, c.441 (C.52:14-17.29e).

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

19 (a) The number of market conduct examinations initiated and
20 completed;

21 (b) The benefit classifications examined by each market conduct
22 examination;

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

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

27 (e) Individually identifiable information shall be excluded from
28 the reports consistent with state and Federal privacy protections.

29 (4) Detail any educational or corrective actions the department
30 has taken to ensure compliance with Paul Wellstone and Pete
31 Domenici Mental Health Parity and Addiction Equity Act of 2008,
32 42 U.S.C 18031(j), P.L.1999, c.106 (C.17:48-6v et al.) and section
33 2 of P.L.1999, c.441 (C.52:14-17.29e).

34 (5) Detail the department's educational approaches relating to
35 informing the public about ¹**["behavioral health care"] mental health**
36 **condition and substance use disorder**¹ parity protections under State
37 and federal law.

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

42 f. The department shall post on its Internet website a report
43 disclosing the department's conclusions as to whether the analyses
44 collected from the carriers as specified in paragraph (3) of
45 subsection c. of this section demonstrate compliance with the
46 Mental Health Parity and Addiction Equity Act of 2008 and its
47 implementing regulations, specifically including whether or not
48 there is compliance with 45 C.F.R. 146.136(c)(4). The name and

1 identity of carriers shall be confidential, shall not be made public by
2 the department, and shall not be subject to public inspection.

3

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