

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 ENGROSSED SENATE
5 BILL NO. 1413

By: Montgomery of the Senate

and

Sneed of the House

6
7
8
9 An Act relating to mental health parity; amending 36
10 O.S. 2021, Section 6060.11, which relates to mental
11 health coverage provisions; modifying contents to be
12 reported in analyses; updating statutory references
13 to comply with federal law; requiring analysis
14 findings include certain provisions; requiring
15 Insurance Commissioner issue guidance and
16 standardized reporting materials; updating statutory
17 references; updating statutory language; and
18 providing an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 36 O.S. 2021, Section 6060.11, is
21 amended to read as follows:

22 Section 6060.11. A. Subject to the limitations set forth in
23 this section and Sections 6060.12 and 6060.13 of this title, any
24 health benefit plan that is offered, issued, or renewed in this
25 state on or after ~~the effective date of this act~~ January 1, 2000,
26 shall provide benefits for treatment of mental health and substance
27 use disorders.

1 B. 1. Benefits for mental health and substance use disorders
2 shall be equal to benefits for treatment of and shall be subject to
3 the same preauthorization and utilization review mechanisms and
4 other terms and conditions as all other physical diseases and
5 disorders including, but not limited to:

- 6 a. coverage of inpatient hospital services for either
7 twenty-six (26) days or the limit for other covered
8 illnesses, whichever is greater,
- 9 b. coverage of outpatient services,
- 10 c. coverage of medication,
- 11 d. maximum lifetime benefits,
- 12 e. copayments,
- 13 f. coverage of home health visits,
- 14 g. individual and family deductibles, and
- 15 h. coinsurance.

16 2. Treatment limitations applicable to mental health or
17 substance use disorder benefits shall be no more restrictive than
18 the predominant treatment limitations applied to substantially all
19 medical and surgical benefits covered by the plan. There shall be
20 no separate treatment limitations that are applicable only with
21 respect to mental health or substance abuse disorder benefits.

22 C. A health benefit plan shall not impose a nonquantitative
23 treatment limitation with respect to mental health and substance use
24 disorders in any classification of benefits unless, under the terms

1 of the health benefit plan as written and in operation, any
2 processes, strategies, evidentiary standards or other factors used
3 in applying the nonquantitative treatment limitation to mental
4 health disorders in the classification are comparable to and applied
5 no more stringently than to medical and surgical benefits in the
6 same classification.

7 D. All health benefit plans must meet the requirements of the
8 federal Paul Wellstone and Pete Domenici Mental Health Parity and
9 Addiction Equity Act of 2008, as amended, and federal guidance or
10 regulations issued under these acts including 45 CFR 146.136, 45 CFR
11 147.160, ~~and~~ 45 CFR 156.115(a)(3), 42 U.S.C. 300gg-26(a), 29 U.S.C.
12 1185a(a), and 26 U.S.C. 9812.

13 E. Beginning on or after ~~the effective date of this act~~ January
14 1, 2000, each insurer that offers, issues or renews any individual
15 or group health benefit plan providing mental health or substance
16 use disorder benefits shall submit an annual report to the Insurance
17 Commissioner on or before April 1 of each year that contains the
18 following:

19 1. A description of the process used to develop or select the
20 medical necessity criteria for mental health and substance use
21 disorder benefits and the process used to develop or select the
22 medical necessity criteria for medical and surgical benefits;

23 2. Identification of all nonquantitative treatment limitations
24 applied to both mental health and substance use disorder benefits

1 and medical and surgical benefits within each classification of
2 benefits; and

3 3. The results of an analysis that demonstrates that for the
4 medical necessity criteria described in paragraph 1 of this
5 subsection and for each nonquantitative treatment limitation
6 identified in paragraph 2 of this subsection, as written and in
7 operation, the processes, strategies, evidentiary standards or other
8 factors used in applying the medical necessity criteria and each
9 nonquantitative treatment limitation to mental health and substance
10 use disorder benefits within each classification of benefits are
11 comparable to and are applied no more stringently than to medical
12 and surgical benefits in the same classification of benefits. At a
13 minimum, the results of the analysis shall:

- 14 a. identify and clearly define the factors and terms used
15 to determine that a nonquantitative treatment
16 limitation will apply to a benefit including factors
17 that were considered but rejected,
- 18 b. identify and clearly define the specific evidentiary
19 standards used to define the factors and any other
20 evidence relied upon in designing each nonquantitative
21 treatment limitation,
- 22 c. provide the detailed, written, and reasoned
23 comparative analyses including the results of the
24 analyses performed to determine that the processes and

1 strategies used to design each nonquantitative
2 treatment limitation, as written, and the as written
3 processes and strategies used to apply the
4 nonquantitative treatment limitation to mental health
5 and substance use disorder benefits are comparable to
6 and applied no more stringently than the processes and
7 strategies used to design each nonquantitative
8 treatment limitation, as written, and the as written
9 processes and strategies used to apply the
10 nonquantitative treatment limitation to medical and
11 surgical benefits,

- 12 d. provide the detailed, written, and reasoned
13 comparative analyses including the results of the
14 analyses performed to determine that the processes and
15 strategies used to apply each nonquantitative
16 treatment limitation, in operation, for mental health
17 and substance use disorder benefits are comparable to
18 and applied no more stringently than the processes or
19 strategies used to apply each nonquantitative
20 treatment limitation for medical and surgical benefits
21 in the same classification of benefits, and
- 22 e. disclose the specific findings and conclusions reached
23 by the insurer that the results of the analyses
24 required by this subsection indicate ~~that~~ whether the

insurer is in compliance with this section and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and its implementing and related regulations including 45 CFR 146.136, 45 CFR 147.160, ~~and~~ 45 CFR 156.115(a)(3), 42 U.S.C. 300gg-26(a), 29 U.S.C. 1185a(a), and 26 U.S.C. 9812.

F. The findings and conclusions shall include sufficient detail to fully explain such findings including methodologies for the analyses, detailed descriptions of each treatment limitation for mental health and substance use disorder benefits compared to each treatment limitation for medical and surgical benefits, and detailed descriptions of all criteria involved for approving mental health and substance use disorder benefits as compared to the criteria involved for approving medical and surgical benefits.

G. The Commissioner shall implement and enforce any applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, as amended, and federal guidance or regulations issued under these acts including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, ~~and~~ 45 CFR 156.115(a)(3), 42 U.S.C. 300gg-26(a), 29 U.S.C. 1185a(a), and 26 U.S.C. 9812.

H. The Commissioner shall issue guidance and standardized reporting templates to ensure compliance with the provisions of this section. Guidance shall include examples of non-quantitative

1 treatment limitations as identified by the Centers for Medicare and
2 Medicaid Services, the Department of Labor, and the Employee
3 Benefits Security Administration.

4 ~~G. I.~~ No later than December 31, 2021, and by December 31 of
5 each year thereafter, the Commissioner shall make available to the
6 public the reports submitted by insurers, as required in subsection
7 E of this section, during the most recent annual cycle, ~~provided,~~
8 ~~however, that any information that is confidential or a trade secret~~
9 ~~shall be redacted.~~

10 1. The Commissioner shall identify insurers that have failed in
11 whole or in part to comply with the full extent of reporting
12 required in this section and shall make a reasonable attempt to
13 obtain missing reports or information by June 1 of the following
14 year.

15 2. The reports submitted by insurers and the identification by
16 the Commissioner of noncompliant insurers shall be made available to
17 the public by posting on the Internet website of the Insurance
18 Department. Any information that is confidential or a trade secret
19 shall be redacted prior to the public posting.

20 ~~H. J.~~ The Commissioner ~~shall~~ may promulgate rules pursuant to
21 the provisions of this section and any provisions of the Paul
22 Wellstone and Pete Domenici Mental Health Parity and Addiction
23 Equity Act of 2008, as amended, that relate to the business of
24 insurance.

SECTION 2. This act shall become effective November 1, 2022.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 04/13/2022 -
DO PASS.