
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1438 Session of
2019

INTRODUCED BY KAUFER, DiGIROLAMO, SCHLOSSBERG, DeLUCA, MURT,
MOUL, OTTEN AND MILLARD, MAY 8, 2019

REFERRED TO COMMITTEE ON INSURANCE, MAY 8, 2019

AN ACT

1 Amending Title 40 (Insurance) of the Pennsylvania Consolidated
2 Statutes, in regulation of insurers and related persons
3 generally, providing for mental health parity and addiction
4 treatment.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 40 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 42

10 MENTAL HEALTH PARITY AND ADDICTION TREATMENT

11 Sec.

12 4201. Scope of chapter.

13 4202. Definitions.

14 4203. Reporting by insurer.

15 4204. Collection of information and report by department.

16 4205. Subsequent review and report.

17 4206. Identifying information.

18 4207. Regulations.

19 4208. Expenses.

1 § 4201. Scope of chapter.

2 This chapter relates to the collection and reporting of
3 statistics regarding addiction treatment services provided under
4 health plans and insurance policies, contracts and certificates
5 and compliance with other laws.

6 § 4202. Definitions.

7 The following words and phrases when used in this chapter
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Addiction treatment." Treatment provided in or by a
11 facility licensed by the Department of Drug and Alcohol
12 Programs.

13 "Adverse benefit determination." As follows:

14 (1) A denial, reduction or termination of, or a failure
15 to provide or make payment in whole or in part for, a
16 benefit.

17 (2) The term includes any of the following:

18 (i) A denial, reduction, termination or failure to
19 provide or make payment that is based on a determination
20 of a participant's or beneficiary's eligibility to
21 participate in a plan.

22 (ii) With respect to group health plans, a denial,
23 reduction or termination of, or a failure to provide or
24 make payment in whole or in part for, a benefit resulting
25 from the application of any utilization review.

26 (iii) A failure to cover an item or service for
27 which benefits are otherwise provided because it is
28 determined to be experimental or investigational or not
29 medically necessary or appropriate.

30 "Insurer." As follows:

1 (1) An entity that issues or administers health
2 insurance policies or health plans and is subject to the
3 jurisdiction of the department.

4 (2) The term includes an entity organized or existing
5 under, or subject to, any of the following:

6 (i) The act of May 17, 1921 (P.L.682, No.284), known
7 as The Insurance Company Law of 1921.

8 (ii) The act of December 29, 1972 (P.L.1701,
9 No.364), known as the Health Maintenance Organization
10 Act.

11 (iii) The act of May 18, 1976 (P.L.123, No.54),
12 known as the Individual Accident and Sickness Insurance
13 Minimum Standards Act.

14 (iv) Chapter 61 (relating to hospital plan
15 corporations) or 63 (relating to professional health
16 services plan corporations).

17 "MHPAEA." The Paul Wellstone and Pete Domenici Mental Health
18 Parity and Addiction Equity Act of 2008 (Public Law 110-343, 122
19 Stat. 3765).

20 "Review." A utilization review, authorization,
21 preauthorization, concurrent review, retrospective review or
22 audit with respect to a benefit and any other process that
23 results or could result in an adverse benefit determination.

24 § 4203. Reporting by insurer.

25 On or before April 30 of each year, an insurer shall provide
26 a report containing the following information to the department
27 for the preceding calendar year:

28 (1) The total number of the insurer's insureds and plan
29 members.

30 (2) The total number of the insurer's insureds and plan

1 members who received addiction treatment covered or
2 authorized by the insurer and by any subcontractor acting on
3 behalf of the insurer.

4 (3) For each product line, the units of addiction
5 treatment authorized by the insurer and its subcontractors,
6 broken down by treatment setting, including inpatient
7 hospital detoxification, inpatient hospital rehabilitation,
8 inpatient nonhospital detoxification, inpatient nonhospital
9 residential, partial hospitalization and outpatient.

10 (4) For each product line, the units of addiction
11 treatment reimbursed or otherwise paid for by the insurer and
12 its subcontractors, broken down by treatment setting,
13 including inpatient hospital detoxification, inpatient
14 hospital rehabilitation, inpatient nonhospital
15 detoxification, inpatient nonhospital residential, partial
16 hospitalization and outpatient.

17 (5) For each product line, the average length of stay or
18 units of service for each treatment setting, including
19 inpatient hospital detoxification, inpatient hospital
20 rehabilitation, inpatient nonhospital detoxification,
21 inpatient nonhospital residential, partial hospitalization
22 and outpatient.

23 (6) For each product line, the number and percentage of
24 reviews conducted by the insurer and its subcontractors, the
25 number and percentage of reviews conducted by the insurer and
26 its subcontractors that resulted in denials and the number
27 and percentage of reviews conducted by the insurer and its
28 subcontractors that resulted in other adverse benefit
29 determinations, other than denials, for each of the
30 following:

1 (i) Inpatient hospital detoxification for alcohol
2 and drug addiction.

3 (ii) Inpatient hospital rehabilitation for alcohol
4 and drug addiction.

5 (iii) Inpatient nonhospital detoxification for
6 alcohol and drug addiction.

7 (iv) Inpatient nonhospital residential for alcohol
8 and drug addiction.

9 (v) Partial hospitalization for alcohol and drug
10 addiction.

11 (vi) Outpatient services for alcohol and drug
12 addiction.

13 (vii) Medical or surgical services.

14 § 4204. Collection of information and report by department.

15 The information and report under section 4203 (relating to
16 reporting by insurer) shall be:

17 (1) Made available on the department's publicly
18 accessible Internet website.

19 (2) Provided to the Department of Drug and Alcohol
20 Programs for the purposes under section 4205 (relating to
21 subsequent review and report).

22 § 4205. Subsequent review and report.

23 (a) Review.--The Department of Drug and Alcohol Programs,
24 working in consultation with the department, shall review the
25 annual report under section 4203 (relating to reporting by
26 insurer) to determine general compliance by insurers regarding:

27 (1) MHPAEA and Federal guidelines or regulations issued
28 under MHPAEA, including the following, together with any
29 subsequent regulations and interim final rules implementing
30 MHPAEA:

1 (i) 26 CFR § 54.9812-1 (relating to parity in mental
2 health and substance use disorder benefits).

3 (ii) 29 CFR § 2590.712 (relating to parity in mental
4 health and substance use disorder benefits).

5 (iii) 42 CFR § 438.910 (relating to parity
6 requirements for financial requirements and treatment
7 limitations).

8 (iv) 42 CFR § 457.496 (relating to parity in mental
9 health and substance use disorder benefits).

10 (v) 45 CFR § 146.136 (relating to parity in mental
11 health and substance use disorder benefits).

12 (2) Section 604-B of the act of May 17, 1921 (P.L.682,
13 No.284), known as The Insurance Company Law of 1921.

14 (b) Report.--After its review under subsection (a), the
15 Department of Drug and Alcohol Programs shall submit a report of
16 findings to:

17 (1) The chairperson and minority chairperson of the
18 Health and Human Services Committee of the Senate.

19 (2) The chairperson and minority chairperson of the
20 Human Services Committee of the House of Representatives.

21 (c) Dissemination of report.--The Department of Drug and
22 Alcohol Programs shall make the report under subsection (b)
23 available on its publicly accessible Internet website.

24 § 4206. Identifying information.

25 (a) Duty of insurer.--An insurer shall take all necessary
26 steps to ensure that no identifying information regarding a
27 specific insured or plan member is made available to the
28 department, the Department of Drug and Alcohol Programs or the
29 public when carrying out the reporting obligations of this
30 chapter.

1 (b) Duty of departments.--The department and the Department
2 of Drug and Alcohol Programs shall take all necessary steps to
3 ensure that no identifying information regarding a specific
4 insured or plan member is made available to the other department
5 or the public when carrying out the requirements of this
6 chapter.

7 § 4207. Regulations.

8 The department shall promulgate regulations necessary to
9 implement this chapter.

10 § 4208. Expenses.

11 All expenses incurred in carrying out the collection, review
12 and reporting activities under this chapter, including the
13 expenses of the department and the Department of Drug and
14 Alcohol Programs regarding employees and any other professionals
15 or specialists retained in connection with these activities,
16 shall be charged to and paid by the insurer that is the subject
17 of the collection, review or reporting.

18 Section 2. All acts or parts of acts are repealed insofar as
19 they are inconsistent with 40 Pa.C.S. Ch. 42.

20 Section 3. This act shall take effect immediately.