

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1439 Session of 2019

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

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 27, 2020

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 access to
4 addiction 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 43

10 MENTAL HEALTH PARITY AND

11 ACCESS TO ADDICTION TREATMENT

12 Sec.

13 4301. Scope of chapter.

14 4302. Definitions.

15 4303. Certification ANNUAL ATTESTATION.

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16 4304. Regulations.

17 § 4301. Scope of chapter.

18 This chapter relates to a certification AN ATTESTATION of

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1 compliance with Federal and State insurance laws regarding  
2 mental health and substance use disorder benefits.

3 § 4302. Definitions.

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

7 "Insurer." As follows: <--

8 ~~(1) An entity that issues or administers health~~  
9 ~~insurance policies or health plans and is subject to the~~  
10 ~~jurisdiction of the department.~~

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

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

15 ~~(ii) The act of December 29, 1972 (P.L.1701,~~  
16 ~~No.364), known as the Health Maintenance Organization~~  
17 ~~Act.~~

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

21 ~~(iv) Chapter 61 (relating to hospital plan~~  
22 ~~corporations) or 63 (relating to professional health~~  
23 ~~services plan corporations).~~

24 "HEALTH INSURANCE POLICY." AS FOLLOWS: <--

25 (1) AN INSURANCE POLICY, SUBSCRIBER CONTRACT,  
26 CERTIFICATE OR PLAN THAT PROVIDES MEDICAL OR HEALTH CARE  
27 COVERAGE, INCLUDING EMERGENCY SERVICES.

28 (2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING TYPES  
29 OF POLICIES:

30 (I) ACCIDENT ONLY.

- 1           (II) FIXED INDEMNITY.
- 2           (III) CREDIT.
- 3           (IV) DENTAL ONLY.
- 4           (V) VISION ONLY.
- 5           (VI) SPECIFIED DISEASE.
- 6           (VII) MEDICARE SUPPLEMENT.
- 7           (VIII) CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE
- 8           UNIFORMED SERVICES (CHAMPUS) SUPPLEMENT.
- 9           (IX) LONG-TERM CARE.
- 10          (X) DISABILITY INCOME.
- 11          (XI) WORKERS' COMPENSATION.
- 12          (XII) AUTOMOBILE MEDICAL PAYMENT INSURANCE.

13        "INSURER." AN ENTITY LICENSED BY THE DEPARTMENT WITH  
14 ACCIDENT AND HEALTH AUTHORITY TO ISSUE A HEALTH INSURANCE POLICY  
15 THAT IS OFFERED OR GOVERNED UNDER ANY OF THE FOLLOWING:

16           (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS  
17 THE INSURANCE COMPANY LAW OF 1921, INCLUDING SECTION 630 AND  
18 ARTICLE XXIV OF THAT ACT.

19           (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),  
20 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

21           (3) CHAPTER 61 (RELATING TO HOSPITAL PLAN CORPORATIONS)  
22 OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES PLAN  
23 CORPORATIONS).

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

27 ~~§ 4303. Certification.~~

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28        ~~No later than January 1 of each year, an insurer that issues~~  
29 ~~or administers a health insurance policy or health plan in this~~  
30 ~~Commonwealth, including a policy or plan in which mental health~~

1 ~~or substance use disorder benefits are managed by an entity~~  
2 ~~other than the insurer, shall file with the department a written~~  
3 ~~certification signed by an officer of the insurer under oath~~  
4 ~~attesting that:~~

5 ~~(1) The insurer has completed a comprehensive review of~~  
6 ~~all health insurance policies and health plans issued or~~  
7 ~~administered by the insurer, including policies and plans in~~  
8 ~~which mental health or substance use disorder benefits are~~  
9 ~~managed by an entity other than the insurer, for compliance~~  
10 ~~with the requirements of MHPAEA and its implementing~~  
11 ~~regulations and compliance with section 604 B of the act of~~  
12 ~~May 17, 1921 (P.L.682, No.284), known as The Insurance~~  
13 ~~Company Law of 1921, and its implementing regulations.~~

14 ~~(2) All policies and plans under paragraph (1) comply~~  
15 ~~with the laws and regulations referred to in paragraph (1).~~

16 § 4303. ANNUAL ATTESTATION.

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17 (A) STATEMENT REGARDING MHPAEA COMPLIANCE.--FOR THE FORM FOR  
18 EACH HEALTH INSURANCE POLICY OFFERED, ISSUED OR RENEWED BY AN  
19 INSURER, THE INSURER SHALL ANNUALLY FILE WITH THE DEPARTMENT A  
20 STATEMENT ATTESTING TO THE INSURER'S DOCUMENTED ANALYSES OF  
21 EFFORTS TO COMPLY WITH MHPAEA AND THE FEDERAL REGULATIONS  
22 RELATING TO MENTAL HEALTH AND SUBSTANCE USE DISORDER PARITY AS  
23 OF THE DATE OF THE ATTESTATION.

24 (B) STATEMENT REGARDING MHPAEA NONAPPLICABILITY.--FOR THE  
25 FORM FOR EACH INSURANCE POLICY OFFERED, ISSUED OR RENEWED BY AN  
26 INSURER IN THIS COMMONWEALTH THAT IS REQUIRED TO BE FILED BUT TO  
27 WHICH MHPAEA DOES NOT APPLY, THE INSURER SHALL ANNUALLY FILE  
28 WITH THE DEPARTMENT A STATEMENT ATTESTING TO THE  
29 NONAPPLICABILITY OF MHPAEA TO THE POLICY FORM.

30 (C) FILING.--EACH ATTESTATION REQUIRED UNDER THIS SECTION

1 MUST BE FILED BY APRIL 30 OF EACH YEAR OR WITH THE FORM FILING,  
2 WHICHEVER IS EARLIER.  
3 § 4304. Regulations.

4 The department shall MAY promulgate regulations necessary to <--  
5 implement this chapter.

6 ~~Section 2. All acts and parts of acts are repealed insofar~~ <--  
7 ~~as they are inconsistent with 40 Pa.C.S. Ch. 43.~~

8 SECTION 2. THIS ACT SHALL APPLY TO THE FORMS FOR EACH <--  
9 INSURANCE POLICY TO BE OFFERED, ISSUED OR RENEWED BY AN INSURER  
10 IN THIS COMMONWEALTH AFTER DECEMBER 31, 2021.

11 Section 3. This act shall take effect immediately.