

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1092

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AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 12-15-5-14.5, AS ADDED BY P.L.128-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.5. **(a)** The office shall include a:

- (1) licensed clinical social worker;
- (2) licensed mental health counselor;
- (3) licensed clinical addiction counselor; and
- (4) licensed marriage and family therapist;

as eligible providers for the supervision of a plan of treatment for a patient's outpatient mental health or substance abuse treatment services, if the individual holds at least a master's degree and the supervision is in the scope of practice, education, and training of the clinical social worker, mental health counselor, clinical addiction counselor, or marriage and family therapist.

**(b) Before July 1, 2020, the office shall apply to the United States Department of Health and Human Services to amend the state Medicaid plan to implement subsection (a).**

SECTION 2. IC 12-15-5-17, AS AMENDED BY P.L.108-2019, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 29, 2020]: Sec. 17. (a) This section does not apply to a Medicaid recipient participating in the Program of All-Inclusive Care for the Elderly (PACE) program described in IC 12-15-43.

(b) The office may not include a Medicaid recipient who is eligible

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to ~~(t)~~ participate in the Medicare program (42 U.S.C. 1395 et seq.) and receive nursing facility services in a risk based managed care program or capitated managed care program.

(c) This section expires ~~June 30, 2020~~: **June 30, 2021**.

SECTION 3. IC 12-15-13-9, AS ADDED BY P.L.128-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Subject to subsection (b), the office shall reimburse the following providers if the providers are providing Medicaid covered services at a federally-qualified health center (as defined in 42 U.S.C. 1396d(1)(2)(B)) or a rural health clinic (as defined in 42 U.S.C. 1396d(1)(1)) within the provider's scope of practice:

- (1) A clinical social worker licensed under IC 25-23.6-5.
- (2) A marriage and family therapist licensed under IC 25-23.6-8.
- (3) A mental health counselor licensed under IC 25-23.6-8.5.
- (4) A clinical addiction counselor licensed under IC 25-23.6-10.5.

(b) **By July 1, 2020**, the office shall apply to the United States Department of Health and Human Services to amend the state Medicaid plan to include reimbursement described in subsection (a). The office may not implement the reimbursement under subsection (a) until the office has obtained approval for the Medicaid state plan amendment requested under this subsection.

SECTION 4. IC 27-8-5-15.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 15.8. (a) As used in this section, "treatment of a mental illness or substance abuse" means:**

- (1) **treatment for a mental illness, as defined in IC 12-7-2-130(1); and**
- (2) **treatment for drug abuse or alcohol abuse.**

(b) **As used in this section, "act" refers to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Act of 2008 and any amendments thereto, plus any federal guidance or regulations relevant to that act, including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3).**

(c) **As used in this section, "nonquantitative treatment limitations" refers to those limitations described in 26 CFR 54.9812-1, 29 CFR 2590.712, and 45 CFR 146.136.**

(d) **An insurer that issues a policy of accident and sickness insurance that provides coverage of services for treatment of a mental illness or substance abuse shall submit a report to the department not later than December 31 of each year that contains the following information:**

- (1) **A description of the processes:**



(A) used to develop or select the medical necessity criteria for coverage of services for treatment of a mental illness or substance abuse; and

(B) used to develop or select the medical necessity criteria for coverage of services for treatment of other medical or surgical conditions.

(2) Identification of all nonquantitative treatment limitations that are applied to:

(A) coverage of services for treatment of a mental illness or substance abuse; and

(B) coverage of services for treatment of other medical or surgical conditions;

within each classification of benefits.

(e) There may be no separate nonquantitative treatment limitations that apply to coverage of services for treatment of a mental illness or substance abuse that do not apply to coverage of services for treatment of other medical or surgical conditions within any classification of benefits.

(f) An insurer that issues a policy of accident and sickness insurance that provides coverage of services for treatment of a mental illness or substance abuse shall also submit an analysis showing the insurer's compliance with this section and the act to the department not later than December 31 of each year. The analysis must do the following:

(1) Identify the factors used to determine that a nonquantitative treatment limitation will apply to a benefit, including factors that were considered but rejected.

(2) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each nonquantitative treatment limitation.

(3) Provide the comparative analyses, including the results of the analyses, performed to determine the following:

(A) That the processes and strategies used to design each nonquantitative treatment limitation for coverage of services for treatment of a mental illness or substance abuse are comparable to, and applied no more stringently than, the processes and strategies used to design each nonquantitative treatment limitation for coverage of services for treatment of other medical or surgical conditions.

(B) That the processes and strategies used to apply each nonquantitative treatment limitation for treatment of a



mental illness or substance abuse are comparable to, and applied no more stringently than, the processes and strategies used to apply each nonquantitative limitation for treatment of other medical or surgical conditions.

**(g) The department shall adopt rules to ensure compliance with this section and the applicable provisions of the act.**

SECTION 5. IC 27-13-7-14.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 14.2. (a) As used in this section, "treatment of a mental illness or substance abuse" means:**

**(1) treatment for a mental illness, as defined in IC 12-7-2-130(1); and**

**(2) treatment for drug abuse or alcohol abuse.**

**(b) As used in this section, "act" refers to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Act of 2008 and any amendments thereto, plus any federal guidance or regulations relevant to that act, including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3).**

**(c) As used in this section, "nonquantitative treatment limitations" refers to those limitations described in 26 CFR 54.9812-1, 29 CFR 2590.712, and 45 CFR 146.136.**

**(d) An individual contract or a group contract that provides coverage of services for treatment of a mental illness or substance abuse shall submit a report to the department not later than December 31 of each year that contains the following information:**

**(1) A description of the processes:**

**(A) used to develop or select the medical necessity criteria for coverage of services for treatment of a mental illness or substance abuse; and**

**(B) used to develop or select the medical necessity criteria for coverage of services for treatment of other medical or surgical conditions.**

**(2) Identification of all nonquantitative treatment limitations that are applied to:**

**(A) coverage of services for treatment of a mental illness or substance abuse; and**

**(B) coverage of services for treatment of other medical or surgical conditions;**

**within each classification of benefits.**

**(e) There may be no separate nonquantitative treatment limitations that apply to coverage of services for treatment of a mental illness or substance abuse that do not apply to coverage of**



services for treatment of other medical or surgical conditions within any classification of benefits.

(f) An individual contract or a group contract that provides coverage of services for treatment of a mental illness or substance abuse shall also submit an analysis showing the insurer's compliance with this section and the act to the department not later than December 31 of each year. The analysis must do the following:

(1) Identify the factors used to determine that a nonquantitative treatment limitation will apply to a benefit, including factors that were considered but rejected.

(2) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each nonquantitative treatment limitation.

(3) Provide the comparative analyses, including the results of the analyses, performed to determine the following:

(A) That the processes and strategies used to design each nonquantitative treatment limitation for coverage of services for treatment of a mental illness or substance abuse are comparable to, and applied no more stringently than, the processes and strategies used to design each nonquantitative treatment limitation for coverage of services for treatment of other medical or surgical conditions.

(B) That the processes and strategies used to apply each nonquantitative treatment limitation for treatment of a mental illness or substance abuse are comparable to, and applied no more stringently than, the processes and strategies used to apply each nonquantitative limitation for treatment of other medical or surgical conditions.

(g) The department shall adopt rules to ensure compliance with this section and the applicable provisions of the act.

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "act" refers to the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Act of 2008 and any amendments thereto, plus any federal guidance or regulations relevant to that act, including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3).

(b) Not later than March 1, 2021, the department of insurance shall submit a report to the general assembly concerning its implementation of rules and procedures to ensure compliance with the act. The report must include the following information:



**(1) The methodology the department uses to determine insurers' compliance with the act.**

**(2) The methodology the department uses to determine insurers' compliance with IC 27-8-5-15.6, IC 27-8-5-15.8, as added by this act, IC 27-13-7-14.2, as added by this act, and IC 27-13-7-14.8.**

**(3) The results of the target market conduct examinations conducted or completed to determine insurers' compliance with state and federal laws regarding parity in coverage of services for treatment of a mental illness or substance abuse in the past twelve (12) months.**

**(4) Any educational or corrective action the department has taken to ensure insurers' compliance with the act.**

**(c) The report required under this SECTION must be in an electronic format under IC 5-14-6.**

**(d) This SECTION expires June 30, 2021.**

**SECTION 7. An emergency is declared for this act.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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