

**SENATE BILL No. 249**

By Senators Holland, Baumgardner, Bollier, Hensley, Sykes and Ware

12-18

1 AN ACT concerning insurance; relating to coverage of mental illness and  
2 substance use disorders; limiting utilization review under certain  
3 circumstances; enacting the Kristi L. Bennett mental health parity act;  
4 amending K.S.A. 2019 Supp. 40-2,105 and 40-2,105a and repealing the  
5 existing sections.

6  
7 WHEREAS, The provisions of the amendments to the sections in this  
8 act shall be named the Kristi L. Bennett mental health parity act.

9 Now, therefore:

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2019 Supp. 40-2,105a is hereby amended to read as  
12 follows: 40-2,105a. (a) (1) ~~Any group health insurance policy, medical~~  
13 ~~service plan, contract, hospital service corporation contract, hospital and~~  
14 ~~medical service corporation contract, fraternal benefit society or health~~  
15 ~~maintenance organization health insurer that offers a health benefit plan~~  
16 that provides medical, surgical or hospital expense coverage shall include  
17 coverage for diagnosis and treatment of mental ~~illnesses and alcoholism,~~  
18 ~~drug abuse or other substance use disorders~~ *illness or substance use*  
19 *disorder as required by this section. Such coverage shall include treatment*  
20 *and services for inpatient or outpatient care. Reimbursement or indemnity*  
21 *shall be provided for treatment in a medical care facility licensed under the*  
22 *provisions of K.S.A. 65-429, and amendments thereto, treatment facilities*  
23 *licensed under K.S.A. 65-4605, and amendments thereto, a community*  
24 *mental health center or clinic licensed under the provisions of K.S.A. 2019*  
25 *Supp. 39-2001 et seq., and amendments thereto, a psychiatric hospital*  
26 *licensed under the provisions of K.S.A. 2019 Supp. 39-2001 et seq., and*  
27 *amendments thereto, or by a physician or psychologist licensed to practice*  
28 *under the laws of the state of Kansas. Such coverage shall not be subject to*  
29 ~~the same deductibles, copayments, coinsurance, out-of-pocket expenses,~~  
30 ~~treatment limitations and other limitations as that are more strict or~~  
31 ~~limiting than those that apply to other covered services.~~

32 (2) (A) ~~The coverage shall include treatment for in-patient care and~~  
33 ~~out-patient care for mental illness, alcoholism, drug abuse or substance use~~  
34 ~~disorders~~ *For patients who have substance use disorder, are afflicted with*  
35 *suicidal ideation or are actively suicidal, health insurers shall provide*  
36 *coverage without the imposition of prior authorization, concurrent review,*

1 *retrospective review or other form of utilization review for the first:*

2 *(i) Fourteen days of medically necessary inpatient treatment and*  
3 *services provided in-network; and*

4 *(ii) 180 days days of medically necessary outpatient treatment and*  
5 *services provided in-network.*

6 *(B) The medical necessity of any treatment shall be determined by the*  
7 *treating provider in consultation with the patient and shall be noted in the*  
8 *patient's medical record.*

9 *(C) For any inpatient treatment, if there is no in-network facility*  
10 *immediately available for a covered person, a health insurer shall provide*  
11 *all necessary network exceptions to ensure that the patient is admitted to a*  
12 *treatment facility within 24 hours.*

13 *(D) Treating providers of patients who have substance use disorder,*  
14 *are afflicted with suicidal ideation or are actively suicidal shall not*  
15 *require prepayment of medical expenses during the first 14 days of*  
16 *medically necessary inpatient treatment and services provided in-network*  
17 *or the first 180 days of medically necessary outpatient treatment and*  
18 *services provided in-network in excess of any applicable co-payment,*  
19 *deductible or co-insurance under the health benefit plan.*

20 *(b) For the purposes of this section, "mental illness, alcoholism, drug*  
21 *abuse or substance use" means any disorder as such terms are defined in*  
22 *the diagnostic and statistical manual of mental disorders, fourth edition,*  
23 *(DSM-IV, 1994) of the American psychiatric association As used in this*  
24 *section:*

25 *(1) "Health benefit plan" means the same as that term is defined in*  
26 *K.S.A. 40-4602, and amendments thereto. Health benefit plan includes any*  
27 *policy of health insurance purchased by an individual and the state*  
28 *employee healthcare benefits plan.*

29 *(2) "Health insurer" means the same as that term is defined in K.S.A.*  
30 *40-4602, and amendments thereto.*

31 *(3) "Mental illness or substance use disorder" means any condition*  
32 *or disorder that involves a mental health condition or substance use*  
33 *disorder that falls under any of the diagnostic categories listed in the*  
34 *mental disorders section of the diagnostic and statistical manual of mental*  
35 *disorders, fifth edition, of the American psychiatric association.*

36 *(c) The provisions of this section shall be applicable to health-*  
37 *maintenance organizations organized under article 32 of chapter 40 of the*  
38 *Kansas Statutes Annotated, and amendments thereto.*

39 *(d) The provisions of this section shall not apply to any small*  
40 *employer group policy, as defined under K.S.A. 40-2209, and amendments*  
41 *thereto, providing medical, surgical or hospital expense coverage or to any*  
42 *medicare supplement policy of insurance, as defined by the commissioner*  
43 *of insurance by rule and regulation.*

1       (e) The provisions of this section shall be applicable to the Kansas-  
2 state employees health care benefits program and municipal funded pools.

3       (f) ~~The provisions of this section shall not apply to any policy or~~  
4 ~~certificate that provides coverage for any specified disease, specified~~  
5 ~~accident or accident only coverage, credit, dental, disability income,~~  
6 ~~hospital indemnity, long-term care insurance as defined by K.S.A. 40-~~  
7 ~~2227, and amendments thereto, vision care or any other limited~~  
8 ~~supplemental benefit nor to any medicare supplement policy of insurance~~  
9 ~~as defined by the commissioner of insurance by rule and regulation, any~~  
10 ~~coverage issued as a supplement to liability insurance, workers-~~  
11 ~~compensation or similar insurance, automobile medical-payment insurance~~  
12 ~~or any insurance under which benefits are payable with or without regard~~  
13 ~~to fault, whether written on a group, blanket or individual basis.~~

14       ~~(g)~~ (d) Treatment limitations include limits on the frequency of  
15 treatment, number of visits, days of coverage or other similar limits on the  
16 scope or duration of treatment.

17       ~~(h)~~ (e) There shall be no coverage under the provisions of this section  
18 for any assessment against any person required ~~by a diversion agreement~~  
19 ~~or by order of a court to attend an alcohol and drug safety action program~~  
20 ~~certified pursuant to K.S.A. 8-1008, and amendments thereto, or for~~  
21 ~~evaluations and diagnostic tests ordered or requested in connection with~~  
22 ~~criminal actions, divorce, child custody or child visitation proceedings.~~

23       ~~(i)~~ (f) Utilization review for mental illness shall be consistent with  
24 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments  
25 thereto.

26       Sec. 2. K.S.A. 2019 Supp. 40-2,105 is hereby amended to read as  
27 follows: 40-2,105. (a) ~~On or after the effective date of this act, Every~~  
28 ~~insurer that issues any individual policy of accident and sickness insurance~~  
29 ~~or group policy of accident and sickness insurance to a small employer as~~  
30 ~~defined in K.S.A. 40-2209d, and amendments thereto, that provides~~  
31 ~~medical, surgical or hospital expense coverage for other than specific~~  
32 ~~diseases or accidents only and that provides for reimbursement or~~  
33 ~~indemnity for services rendered to a person covered by such policy in a~~  
34 ~~medical care facility, must shall provide for reimbursement or indemnity~~  
35 ~~under such individual policy or under such small employer group policy,~~  
36 ~~except as provided in subsection (d), that shall be limited to not less than~~  
37 ~~45 days per year for in-patient treatment of mental illness in a medical care~~  
38 ~~facility licensed under the provisions of K.S.A. 65-429, and amendments~~  
39 ~~thereto, and not less than 30 days per year when such person is confined~~  
40 ~~for treatment of alcoholism, drug abuse or substance use disorders-~~  
41 ~~disorder in a treatment facility for alcoholics licensed under the provisions~~  
42 ~~of K.S.A. 65-4014, and amendments thereto, a treatment facility for drug~~  
43 ~~abusers licensed under the provisions of K.S.A. 65-4605, and amendments~~

1 thereto, a community mental health center or clinic licensed under the  
2 provisions of K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto,  
3 or a psychiatric hospital licensed under the provisions of K.S.A. 2019  
4 Supp. 39-2001 et seq., and amendments thereto. ~~Such individual policy or~~  
5 Such small employer group policy shall also provide for reimbursement or  
6 indemnity, except as provided in subsection (d), of the costs of treatment  
7 of such person for mental illness, ~~alcoholism, drug abuse and~~ or substance  
8 use ~~disorders~~ disorder subject to the same deductibles, copayments,  
9 coinsurance, out-of-pocket expenses and treatment limitations as apply to  
10 other covered services, limited to not less than \$15,000 in such person's  
11 lifetime, with no annual limits, in the facilities enumerated when in-patient  
12 treatment is not necessary for the treatment or by a physician licensed or  
13 psychologist licensed to practice under the laws of the state of Kansas.

14 (b) *For patients who have substance use disorder, are afflicted with*  
15 *suicidal ideation or are actively suicidal, health insurers shall provide*  
16 *coverage without the imposition of prior authorization, concurrent review,*  
17 *retrospective review or other form of utilization review for the first:*

18 (1) *Fourteen days of medically necessary inpatient treatment and*  
19 *services provided in-network; and*

20 (2) *180 days days of medically necessary outpatient treatment and*  
21 *services provided in-network.*

22 (c) *The medical necessity of any treatment shall be determined by the*  
23 *treating provider in consultation with the patient and shall be noted in the*  
24 *patient's medical record.*

25 (d) *For any inpatient treatment, if there is no in-network facility*  
26 *immediately available for a covered person, a health insurer shall provide*  
27 *all necessary network exceptions to ensure that the patient is admitted to a*  
28 *treatment facility within 24 hours.*

29 (e) *Treating providers of patients who have substance use disorder,*  
30 *are afflicted with suicidal ideation or are actively suicidal shall not*  
31 *require prepayment of medical expenses during the first 14 days of*  
32 *medically necessary inpatient treatment and services provided in-network*  
33 *or the first 180 days of medically necessary outpatient treatment and*  
34 *services provided in-network in excess of any applicable co-payment,*  
35 *deductible or co-insurance under the health benefit plan.*

36 (f) ~~For the purposes of~~ *As used in this section "mental illness,*  
37 ~~alcoholism, drug abuse or substance use disorder" means disorders~~  
38 ~~specified in any condition or disorder that involves a mental health~~  
39 ~~condition or substance use disorder that falls under any of the diagnostic~~  
40 ~~categories listed in the mental disorders section of the diagnostic and~~  
41 ~~statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) fifth~~  
42 ~~edition,~~ *of the American psychiatric association.*

43 (e)(g) The provisions of this section shall be applicable to health

1 maintenance organizations organized under article 32 of chapter 40 of the  
2 Kansas Statutes Annotated, and amendments thereto.

3 ~~(d)(h)~~ There shall be no coverage under the provisions of this section  
4 for any assessment against any person required by a diversion agreement  
5 or ~~by order of a court to attend an alcohol and drug safety action program~~  
6 ~~certified~~ pursuant to K.S.A. 8-1008, and amendments thereto, or for  
7 evaluations and diagnostic tests ordered or requested in connection with  
8 criminal actions, divorce, child custody or child visitation proceedings.

9 ~~(e)(i)~~ The provisions of this section shall not apply to any medicare  
10 supplement policy of insurance, as defined by the commissioner of  
11 insurance by rule and regulation.

12 ~~(f)(j)~~ Treatment limitations include limits on the frequency of  
13 treatment, number of visits, days of coverage or other similar limits on the  
14 scope or duration of treatment.

15 ~~(g)(k)~~ Utilization review for mental illness shall be consistent with  
16 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments  
17 thereto.

18 Sec. 3. K.S.A. 2019 Supp. 40-2,105 and 40-2,105a are hereby  
19 repealed.

20 Sec. 4. This act shall take effect and be in force from and after its  
21 publication in the Kansas register.