

HOUSE No. 1068

The Commonwealth of Massachusetts

PRESENTED BY:

Kay Khan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to further define medical necessity determinations.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------------|-----------------------|------------------|
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>1/10/2023</i> |
| <i>Samantha Montaño</i> | <i>15th Suffolk</i> | <i>2/13/2023</i> |
| <i>Carol A. Doherty</i> | <i>3rd Bristol</i> | <i>2/20/2023</i> |

HOUSE No. 1068

By Representative Khan of Newton, a petition (accompanied by bill, House, No. 1068) of Kay Khan, Samantha Montañó and Carol A. Doherty relative to health plan coverage for medically necessary mental health crisis stabilization services. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1136 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to further define medical necessity determinations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after
2 section 17R the following section:-

3 Section 17S. For the purposes of this section the following terms shall, unless the context
4 clearly requires otherwise, have the following meanings:

5 “Mental health acute treatment”, 24-hour medically supervised mental health services
6 provided in an inpatient facility, licensed by the department of mental health, that provides
7 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
8 milieu.

9 “Mental health crisis stabilization services”, 24-hour clinically managed mental health
10 diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually
11 provided as an alternative to mental health acute treatment or following mental health acute
12 treatment, which may include intensive crisis stabilization counseling, outreach to families and
13 significant others and aftercare planning.

14 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health
15 diversionary or step-down services for children and adolescents, as defined by the department of
16 early education and care, usually provided as an alternative to mental health acute treatment.

17 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically
18 managed mental health diversionary or step-down services for children and adolescents, as
19 defined by the department of early education and care, usually provided as an alternative to
20 mental health acute treatment.

21 The commission shall provide to any active or retired employee of the commonwealth
22 who is insured under the group insurance commission coverage for medically necessary mental
23 health acute treatment and shall not require a preauthorization prior to obtaining treatment.

24 Medical necessity shall be determined by the treating clinician in consultation with the patient
25 and noted in the patient’s medical record.

26 The commission shall provide to any active or retired employee of the commonwealth
27 who is insured under the group insurance commission coverage for medically necessary mental
28 health crisis stabilization services for up to 14 days and shall not require preauthorization prior to
29 obtaining such services; provided, that the facility shall provide the carrier both notification of
30 admission and the initial treatment plan within 48 hours of admission; provided further, that

31 utilization review procedures may be initiated on day 7. Medical necessity shall be determined
32 by the treating clinician in consultation with the patient and noted in the patient's medical record.

33 The commission shall provide to any active or retired employee of the commonwealth
34 who is insured under the group insurance commission coverage for medically necessary
35 community based acute treatment services for up to 21 days; provided, that the facility shall
36 provide the carrier both notification of admission and the initial treatment plan within 48 hours
37 of admission; provided further, that utilization review procedures may be initiated on day 10.
38 Medical necessity shall be determined by the treating clinician in consultation with the patient
39 and noted in the patient's medical record.

40 The commission shall provide to any active or retired employee of the commonwealth
41 who is insured under the group insurance commission coverage for medically necessary
42 intensive community based acute treatment services for up to 14 days; provided, that the facility
43 shall provide the carrier both notification of admission and the initial treatment plan within 48
44 hours of admission; provided further, that utilization review procedures may be initiated on day
45 7. Medical necessity shall be determined by the treating clinician in consultation with the patient
46 and noted in the patient's medical record.

47 SECTION 2. Chapter 118E of the General Laws is hereby amended by inserting after
48 section 10N the following section:-

49 Section 10O. For the purposes of this section the following terms shall, unless the context
50 clearly requires otherwise, have the following meanings:

51 "Mental health acute treatment", 24-hour medically supervised mental health services
52 provided in an inpatient facility, licensed by the department of mental health, that provides

53 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
54 milieu.

55 “Mental health crisis stabilization services”, 24-hour clinically managed mental health
56 diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually
57 provided as an alternative to mental health acute treatment or following mental health acute
58 treatment, which may include intensive crisis stabilization counseling, outreach to families and
59 significant others and aftercare planning.

60 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health
61 diversionary or step-down services for children and adolescents, as defined by the department of
62 early education and care, usually provided as an alternative to mental health acute treatment.

63 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically
64 managed mental health diversionary or step-down services for children and adolescents, as
65 defined by the department of early education and care, usually provided as an alternative to
66 mental health acute treatment.

67 The division and its contracted health insurers, health plans, health maintenance
68 organizations, behavioral health management firms and third party administrators under contract
69 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
70 medically necessary mental health acute treatment and shall not require a preauthorization prior
71 to obtaining treatment. Medical necessity shall be determined by the treating clinician in
72 consultation with the patient and noted in the patient’s medical record.

73 The division and its contracted health insurers, health plans, health maintenance
74 organizations, behavioral health management firms and third party administrators under contract

75 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
76 medically necessary mental health crisis stabilization services for up to 14 days and shall not
77 require preauthorization prior to obtaining such services; provided, that the facility shall provide
78 the carrier both notification of admission and the initial treatment plan within 48 hours of
79 admission; provided further, that utilization review procedures may be initiated on day 7.
80 Medical necessity shall be determined by the treating clinician in consultation with the patient
81 and noted in the patient's medical record.

82 The division and its contracted health insurers, health plans, health maintenance
83 organizations, behavioral health management firms and third party administrators under contract
84 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
85 medically necessary community based acute treatment services for up to 21 days; provided, that
86 the facility shall provide the carrier both notification of admission and the initial treatment plan
87 within 48 hours of admission; provided further, that utilization review procedures may be
88 initiated on day 10. Medical necessity shall be determined by the treating clinician in
89 consultation with the patient and noted in the patient's medical record.

90 The division and its contracted health insurers, health plans, health maintenance
91 organizations, behavioral health management firms and third party administrators under contract
92 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of
93 medically necessary intensive community based acute treatment services for up to 14 days;
94 provided, that the facility shall provide the carrier both notification of admission and the initial
95 treatment plan within 48 hours of admission; provided further, that utilization review procedures
96 may be initiated on day 7. Medical necessity shall be determined by the treating clinician in
97 consultation with the patient and noted in the patient's medical record.

98 SECTION 3. Chapter 175 of the General Laws is hereby amended by inserting after
99 section 47NN the following section:-

100 Section 47OO. For the purposes of this section the following terms shall, unless the
101 context clearly requires otherwise, have the following meanings:

102 “Mental health acute treatment”, 24-hour medically supervised mental health services
103 provided in an inpatient facility, licensed by the department of mental health, that provides
104 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
105 milieu.

106 “Mental health crisis stabilization services”, 24-hour clinically managed mental health
107 diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually
108 provided as an alternative to mental health acute treatment or following mental health acute
109 treatment, which may include intensive crisis stabilization counseling, outreach to families and
110 significant others and aftercare planning.

111 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health
112 diversionary or step-down services for children and adolescents, as defined by the department of
113 early education and care, usually provided as an alternative to mental health acute treatment.

114 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically
115 managed mental health diversionary or step-down services for children and adolescents, as
116 defined by the department of early education and care, usually provided as an alternative to
117 mental health acute treatment.

118 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
119 renewed within the commonwealth, which is considered creditable coverage under section 1 of
120 chapter 111M, shall provide coverage for medically necessary mental health acute treatment and
121 shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be
122 determined by the treating clinician in consultation with the patient and noted in the patient's
123 medical record.

124 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
125 renewed within the commonwealth, which is considered creditable coverage under section 1 of
126 chapter 111M, shall provide coverage for medically necessary mental health crisis stabilization
127 services for up to 14 days and shall not require preauthorization prior to obtaining such services;
128 provided, that the facility shall provide the carrier both notification of admission and the initial
129 treatment plan within 48 hours of admission; provided further, that utilization review procedures
130 may be initiated on day 7. Medical necessity shall be determined by the treating clinician in
131 consultation with the patient and noted in the patient's medical record.

132 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
133 renewed within the commonwealth, which is considered creditable coverage under section 1 of
134 chapter 111M, shall provide coverage for medically necessary community based acute treatment
135 services for up to 21 days; provided, that the facility shall provide the carrier both notification of
136 admission and the initial treatment plan within 48 hours of admission; provided further, that
137 utilization review procedures may be initiated on day 10. Medical necessity shall be determined
138 by the treating clinician in consultation with the patient and noted in the patient's medical record.

139 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or
140 renewed within the commonwealth, which is considered creditable coverage under section 1 of
141 chapter 111M, shall provide coverage for medically necessary intensive community based acute
142 treatment services for up to 14 days; provided, that the facility shall provide the carrier both
143 notification of admission and the initial treatment plan within 48 hours of admission; provided
144 further, that utilization review procedures may be initiated on day 7. Medical necessity shall be
145 determined by the treating clinician in consultation with the patient and noted in the patient's
146 medical record.

147 SECTION 4. Chapter 176A of the General Laws is hereby amended by inserting after
148 section 800 the following section:-

149 Section 8PP. For the purposes of this section the following terms shall, unless the context
150 clearly requires otherwise, have the following meanings:

151 "Mental health acute treatment", 24-hour medically supervised mental health services
152 provided in an inpatient facility, licensed by the department of mental health, that provides
153 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
154 milieu.

155 "Mental health crisis stabilization services", 24-hour clinically managed mental health
156 diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually
157 provided as an alternative to mental health acute treatment or following mental health acute
158 treatment, which may include intensive crisis stabilization counseling, outreach to families and
159 significant others and aftercare planning.

160 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health
161 diversionary or step-down services for children and adolescents, as defined by the department of
162 early education and care, usually provided as an alternative to mental health acute treatment.

163 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically
164 managed mental health diversionary or step-down services for children and adolescents, as
165 defined by the department of early education and care, usually provided as an alternative to
166 mental health acute treatment.

167 Any contract between a subscriber and the corporation under an individual or group
168 hospital service plan which is delivered, issued or renewed within the commonwealth shall
169 provide coverage for medically necessary mental health acute treatment and shall not require a
170 preauthorization prior to obtaining treatment. Medical necessity shall be determined by the
171 treating clinician in consultation with the patient and noted in the patient’s medical record.

172 Any contract between a subscriber and the corporation under an individual or group
173 hospital service plan which is delivered, issued or renewed within the commonwealth shall
174 provide coverage for medically necessary mental health crisis stabilization services for up to 14
175 days and shall not require preauthorization prior to obtaining such services; provided, that the
176 facility shall provide the carrier both notification of admission and the initial treatment plan
177 within 48 hours of admission; provided further, that utilization review procedures may be
178 initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation
179 with the patient and noted in the patient’s medical record.

180 Any contract between a subscriber and the corporation under an individual or group
181 hospital service plan which is delivered, issued or renewed within the commonwealth shall

182 provide coverage for medically necessary community based acute treatment services for up to 21
183 days; provided, that the facility shall provide the carrier both notification of admission and the
184 initial treatment plan within 48 hours of admission; provided further, that utilization review
185 procedures may be initiated on day 10. Medical necessity shall be determined by the treating
186 clinician in consultation with the patient and noted in the patient’s medical record.

187 Any contract between a subscriber and the corporation under an individual or group
188 hospital service plan which is delivered, issued or renewed within the commonwealth shall
189 provide coverage for medically necessary intensive community based acute treatment services
190 for up to 14 days; provided, that the facility shall provide the carrier both notification of
191 admission and the initial treatment plan within 48 hours of admission; provided further, that
192 utilization review procedures may be initiated on day 7. Medical necessity shall be determined
193 by the treating clinician in consultation with the patient and noted in the patient’s medical record.

194 SECTION 5. Chapter 176B of the General Laws is hereby amended by inserting after
195 section 400 the following section:-

196 Section 4PP. For the purposes of this section the following terms shall, unless the context
197 clearly requires otherwise, have the following meanings:

198 “Mental health acute treatment”, 24-hour medically supervised mental health services
199 provided in an inpatient facility, licensed by the department of mental health, that provides
200 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
201 milieu.

202 “Mental health crisis stabilization services”, 24-hour clinically managed mental health
203 diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually

204 provided as an alternative to mental health acute treatment or following mental health acute
205 treatment, which may include intensive crisis stabilization counseling, outreach to families and
206 significant others and aftercare planning.

207 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health
208 diversionary or step-down services for children and adolescents, as defined by the department of
209 early education and care, usually provided as an alternative to mental health acute treatment.

210 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically
211 managed mental health diversionary or step-down services for children and adolescents, as
212 defined by the department of early education and care, usually provided as an alternative to
213 mental health acute treatment.

214 Any subscription certificate under an individual or group medical service agreement
215 delivered, issued or renewed within the commonwealth shall provide coverage for medically
216 necessary mental health acute treatment and shall not require a preauthorization prior to
217 obtaining treatment. Medical necessity shall be determined by the treating clinician in
218 consultation with the patient and noted in the patient’s medical record.

219 Any subscription certificate under an individual or group medical service agreement
220 delivered, issued or renewed within the commonwealth shall provide coverage for medically
221 necessary mental health crisis stabilization services for up to 14 days and shall not require
222 preauthorization prior to obtaining such services; provided, that the facility shall provide the
223 carrier both notification of admission and the initial treatment plan within 48 hours of admission;
224 provided further, that utilization review procedures may be initiated on day 7. Medical necessity

225 shall be determined by the treating clinician in consultation with the patient and noted in the
226 patient's medical record.

227 Any subscription certificate under an individual or group medical service agreement
228 delivered, issued or renewed within the commonwealth shall provide coverage for medically
229 necessary community based acute treatment services for up to 21 days; provided, that the facility
230 shall provide the carrier both notification of admission and the initial treatment plan within 48
231 hours of admission; provided further, that utilization review procedures may be initiated on day
232 10. Medical necessity shall be determined by the treating clinician in consultation with the
233 patient and noted in the patient's medical record.

234 Any subscription certificate under an individual or group medical service agreement
235 delivered, issued or renewed within the commonwealth shall provide coverage for medically
236 necessary intensive community based acute treatment services for up to 14 days; provided, that
237 the facility shall provide the carrier both notification of admission and the initial treatment plan
238 within 48 hours of admission; provided further, that utilization review procedures may be
239 initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation
240 with the patient and noted in the patient's medical record.

241 SECTION 6. Chapter 176G of the General Laws is hereby amended by inserting after
242 section 4GG the following section:-

243 Section 4HH. For the purposes of this section the following terms shall, unless the
244 context clearly requires otherwise, have the following meanings:

245 "Mental health acute treatment", 24-hour medically supervised mental health services
246 provided in an inpatient facility, licensed by the department of mental health, that provides

247 psychiatric evaluation, management, treatment and discharge planning in a structured treatment
248 milieu.

249 “Mental health crisis stabilization services”, 24-hour clinically managed mental health
250 diversionary or step-down services for adults or adolescents, as defined by MassHealth, usually
251 provided as an alternative to mental health acute treatment or following mental health acute
252 treatment, which may include intensive crisis stabilization counseling, outreach to families and
253 significant others and aftercare planning.

254 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health
255 diversionary or step-down services for children and adolescents, as defined by the department of
256 early education and care, usually provided as an alternative to mental health acute treatment.

257 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically
258 managed mental health diversionary or step-down services for children and adolescents, as
259 defined by the department of early education and care, usually provided as an alternative to
260 mental health acute treatment.

261 Any individual or group health maintenance contract that is issued or renewed shall
262 provide coverage for medically necessary mental health acute treatment and shall not require a
263 preauthorization prior to obtaining treatment. Medical necessity shall be determined by the
264 treating clinician in consultation with the patient and noted in the patient’s medical record.

265 Any individual or group health maintenance contract that is issued or renewed shall
266 provide coverage for medically necessary mental health crisis stabilization services for up to 14
267 days and shall not require preauthorization prior to obtaining such services; provided, that the
268 facility shall provide the carrier both notification of admission and the initial treatment plan

269 within 48 hours of admission; provided further, that utilization review procedures may be
270 initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation
271 with the patient and noted in the patient's medical record.

272 Any individual or group health maintenance contract that is issued or renewed shall
273 provide coverage for medically necessary community based acute treatment services for up to 21
274 days; provided, that the facility shall provide the carrier both notification of admission and the
275 initial treatment plan within 48 hours of admission; provided further, that utilization review
276 procedures may be initiated on day 10. Medical necessity shall be determined by the treating
277 clinician in consultation with the patient and noted in the patient's medical record.

278 Any individual or group health maintenance contract that is issued or renewed shall
279 provide coverage for medically necessary intensive community based acute treatment services
280 for up to 14 days; provided, that the facility shall provide the carrier both notification of
281 admission and the initial treatment plan within 48 hours of admission; provided further, that
282 utilization review procedures may be initiated on day 7. Medical necessity shall be determined
283 by the treating clinician in consultation with the patient and noted in the patient's medical record.