

1 SENATE BILL NO. 216

2 INTRODUCED BY J. SMALL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO REQUIRING
5 HEALTH INSURANCE ISSUERS TO PROVIDE PARITY COMPLIANCE REPORTING; REQUIRING A
6 DESCRIPTION OF THE PROCESS USED TO SELECT MEDICAL NECESSITY CRITERIA; REQUIRING
7 IDENTIFICATION OF NONQUANTITATIVE TREATMENT LIMITATIONS; REQUIRING THE REPORTING OF
8 ANALYSIS RESULTS; AMENDING SECTIONS 33-22-702 AND 33-35-306, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. **Section 1. Parity compliance records.** A health insurance issuer that issues,
14 modifies, or renews individual or group health insurance coverage that provides mental health or substance use
15 disorder benefits shall submit an annual report to the commissioner on or before April 1 that contains the
16 following information:

17 (1) a description of the process used to develop or select the medical necessity criteria for mental
18 health and substance use disorder benefits and the process used to develop or select the medical necessity
19 criteria for medical and surgical benefits;

20 (2) identification of all nonquantitative treatment limitations that are applied to both mental health and
21 substance use disorder benefits and medical and surgical benefits within each classification of benefits. There
22 may be no separate nonquantitative treatment limitations that apply to mental health and substance use
23 disorder benefits but do not apply to medical and surgical benefits within any classification of benefits.

24 (3) the results of an analysis that demonstrates that for the medical necessity criteria described in
25 subsection (1) and for each nonquantitative treatment limitation identified in subsection (2), as written and in
26 operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical
27 necessity criteria and each nonquantitative treatment limitation to mental health and substance use disorder
28 benefits within each classification of benefits are comparable to, and are applied no more stringently than, the

1 processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and
2 each nonquantitative treatment limitation to medical and surgical benefits within the corresponding classification
3 of benefits. At a minimum, the results of the analysis must:

4 (a) identify the factors used to determine that a nonquantitative treatment limitation will apply to a
5 benefit, including factors that were considered but rejected;

6 (b) identify and define the specific evidentiary standards used to define the factors and any other
7 evidence relied on in designing each nonquantitative treatment limitation;

8 (c) provide the comparative analyses, including the results of the analyses, performed to determine
9 that the processes and strategies used to design each nonquantitative treatment limitation, as written, and the
10 written processes and strategies used to apply the nonquantitative treatment limitations to mental health and
11 substance use disorder benefits are comparable to, and are applied no more stringently than, the processes
12 and strategies used to design each nonquantitative treatment limitation, as written, and the written processes
13 and strategies used to apply the nonquantitative treatment limitations to medical and surgical benefits;

14 (d) provide the comparative analyses, including the results of the analyses, performed to determine
15 that the processes and strategies used to apply each nonquantitative treatment limitation, in operation, for
16 mental health and substance use disorder benefits are comparable to, and are applied no more stringently
17 than, the processes and strategies used to apply each nonquantitative treatment limitation, in operation, for
18 medical and surgical benefits; and

19 (e) disclose the specific findings and conclusions reached by the issuer that the results of the
20 analyses above indicate that the issuer is in compliance with this section and the Mental Health Parity and
21 Addiction Equity Act of 2008 and related regulations, including 45 CFR 146.136, 45 CFR 147.160, and 45 CFR
22 156.115(a)(3).

23

24 **Section 2.** Section 33-22-702, MCA, is amended to read:

25 **"33-22-702. Definitions.** For purposes of this part, the following definitions apply:

26 (1) "Inpatient benefits" are as set forth in 33-22-705.

27 (2) "Mental health treatment center" means a treatment facility organized to provide care and
28 treatment for mental illness or severe mental illness through multiple modalities or techniques pursuant to a

1 written treatment plan approved and monitored by a qualified health care provider and a treatment facility that
2 is:

- 3 (a) licensed as a mental health treatment center by the state;
- 4 (b) funded or eligible for funding under federal or state law; or
- 5 (c) affiliated with a hospital under a contractual agreement with an established system for patient
6 referral.

7 (3) (a) "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern
8 that occurs in a person and that is associated with:

- 9 (i) present distress or a painful symptom;
- 10 (ii) a disability or impairment in one or more areas of functioning; or
- 11 (iii) a significantly increased risk of suffering death, pain, disability, or an important loss of freedom.
- 12 (b) Mental illness must be considered as a manifestation of a behavioral, psychological, or biological
13 dysfunction in a person.

14 (c) Mental illness does not include:

- 15 (i) a developmental disorder;
- 16 (ii) a speech disorder;
- 17 (iii) a psychoactive substance use disorder;
- 18 (iv) an eating disorder, except for bulimia and anorexia nervosa; or
- 19 (v) an impulse control disorder, except for intermittent explosive disorder and trichotillomania.

20 (4) "Outpatient benefits" are as set forth in 33-22-705.

21 (5) "Qualified health care provider" means a person licensed as a physician, psychologist, social
22 worker, clinical professional counselor, marriage and family therapist, or addiction counselor or another
23 appropriate licensed health care practitioner.

24 (6) "Quantitative treatment limitation" means numerical limits on the scope or duration of treatment,
25 including annual, episode, and lifetime day and visit limits.

26 ~~(6)~~(7) "Severe mental illness" means the following disorders as defined by the American psychiatric
27 association:

- 28 (a) schizophrenia;

- 1 (b) schizoaffective disorder;
- 2 (c) bipolar disorder;
- 3 (d) major depression;
- 4 (e) panic disorder;
- 5 (f) obsessive-compulsive disorder; and
- 6 (g) autism.

7 ~~(7)~~(8) (a) "Substance use disorder" means the uncontrollable or excessive use of an addictive
 8 substance, including but not limited to alcohol, morphine, cocaine, heroin, opium, cannabis, barbiturates,
 9 amphetamines, tranquilizers, or hallucinogens, and the resultant physiological or psychological dependency
 10 that develops with continued use of the addictive substance and that requires medical care or other appropriate
 11 treatment as determined by a licensed addiction counselor or other appropriate medical practitioner.

12 ~~(8)~~(9) "Substance use disorder treatment center" means a treatment facility that:

- 13 (a) provides a program for the treatment of substance use disorders pursuant to a written treatment
 14 plan approved and monitored by a qualified health care provider; and
- 15 (b) is licensed or approved by the department of public health and human services under 53-24-208
 16 or is licensed or approved by the state where the facility is located."

17

18 **Section 3.** Section 33-35-306, MCA, is amended to read:

19 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-
 20 funded multiple employer welfare arrangements are subject to the following provisions:

- 21 (a) 33-1-111;
- 22 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
 23 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;
- 24 (c) Title 33, chapter 1, part 7;
- 25 (d) Title 33, chapter 2, part 23;
- 26 (e) 33-3-308;
- 27 (f) Title 33, chapter 7;
- 28 (g) Title 33, chapter 18, except 33-18-242;

1 (h) Title 33, chapter 19;

2 (i) 33-22-107, 33-22-131, 33-22-134, 33-22-135, 33-22-138, 33-22-139, 33-22-141, 33-22-142, 33-22-
3 152, and 33-22-153; ~~and~~

4 (j) 33-22-512, 33-22-515, 33-22-525, and 33-22-526; and

5 (k) [section 1].

6 (2) Except as provided in this chapter, other provisions of Title 33 do not apply to a self-funded
7 multiple employer welfare arrangement that has been issued a certificate of authority that has not been
8 revoked."

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10 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
11 integral part of Title 33, chapter 22, part 7, and the provisions of Title 33, chapter 22, part 7, apply to [section 1].

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13 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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15 NEW SECTION. Section 6. Applicability. [This act] applies to insurance policies issued, modified,
16 and renewed on or after [the effective date of this act].

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