

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~~ A CONTINGENT EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

12
 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~~ a report to the commissioner on or before April 1 OF THE YEAR
 16 FOLLOWING [THE EFFECTIVE DATE OF THIS ACT], AND UPON REQUEST OF THE COMMISSIONER FOR EACH YEAR
 17 THEREAFTER, that ~~contains the following information:~~ COMPLIES WITH THE MENTAL HEALTH AND SUBSTANCE USE
 18 DISORDER PARITY ANALYSIS REQUIREMENTS OF 42 U.S.C. 300GG-26(A)(8).

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

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

26 ~~(3) the results of an analysis that demonstrates that for the medical necessity criteria described in~~
 27 ~~subsection (1) and for each nonquantitative treatment limitation identified in subsection (2), as written and in~~
 28 ~~operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical~~

1 necessity criteria and each nonquantitative treatment limitation to mental health and substance use disorder
 2 benefits within each classification of benefits are comparable to, and are applied no more stringently than, the
 3 processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and
 4 each nonquantitative treatment limitation to medical and surgical benefits within the corresponding classification
 5 of benefits. At a minimum, the results of the analysis must:

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

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

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

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

21 (e) disclose the specific findings and conclusions reached by the issuer that the results of the
 22 analyses above indicate that the issuer is in compliance with this section and the Mental Health Parity and
 23 Addiction Equity Act of 2008 and related regulations, including 45 CFR 146.136, 45 CFR 147.160, and 45 CFR
 24 156.115(a)(3).

25

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

27 **"33-22-702. Definitions.** For purposes of this part, the following definitions apply:

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

1 ~~(2)~~ "MENTAL HEALTH BENEFITS" MEANS BENEFITS WITH RESPECT TO ITEMS OR SERVICES FOR MENTAL HEALTH
 2 CONDITIONS, AS DEFINED UNDER THE TERMS OF THE PLAN OR HEALTH INSURANCE COVERAGE AND IN ACCORDANCE WITH
 3 APPLICABLE FEDERAL AND STATE LAW. ANY CONDITION DEFINED BY THE PLAN OR COVERAGE AS BEING OR AS NOT BEING
 4 A MENTAL HEALTH CONDITION MUST BE DEFINED TO BE CONSISTENT WITH GENERALLY RECOGNIZED INDEPENDENT
 5 STANDARDS OF CURRENT MEDICAL PRACTICE, INCLUDING BUT NOT LIMITED TO THE MOST RECENT EDITION OF THE
 6 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS.

7 ~~(2)~~ (3) "Mental health treatment center" means a treatment facility organized to provide care and
 8 treatment for mental illness or severe mental illness through multiple modalities or techniques pursuant to a
 9 written treatment plan approved and monitored by a qualified health care provider and a treatment facility that
 10 is:

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

15 ~~(3)~~ (4) (a) "Mental illness" means a clinically significant behavioral or psychological syndrome or
 16 pattern that occurs in a person and that is associated with:

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

22 (c) Mental illness does not include:

- 23 (i) a developmental disorder;
- 24 (ii) a speech disorder;
- 25 (iii) a psychoactive substance use disorder;
- 26 (iv) an eating disorder, except for bulimia and anorexia nervosa; or
- 27 (v) an impulse control disorder, except for intermittent explosive disorder and trichotillomania.

28 ~~(4)~~ (5) "Outpatient benefits" are as set forth in 33-22-705.

1 ~~(5)~~ (6) "Qualified health care provider" means a person licensed as a physician, psychologist, social
2 worker, clinical professional counselor, marriage and family therapist, or addiction counselor or another
3 appropriate licensed health care practitioner.

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

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

- 8 (a) schizophrenia;
- 9 (b) schizoaffective disorder;
- 10 (c) bipolar disorder;
- 11 (d) major depression;
- 12 (e) panic disorder;
- 13 (f) obsessive-compulsive disorder; and
- 14 (g) autism.

15 ~~(7)~~(8) (a) "Substance use disorder" means the uncontrollable or excessive use of an addictive
16 substance, including but not limited to alcohol, morphine, cocaine, heroin, opium, cannabis, barbiturates,
17 amphetamines, tranquilizers, or hallucinogens, and the resultant physiological or psychological dependency
18 that develops with continued use of the addictive substance and that requires medical care or other appropriate
19 treatment as determined by a licensed addiction counselor or other appropriate medical practitioner.

20 (9) "SUBSTANCE USE DISORDER BENEFITS" MEANS BENEFITS WITH RESPECT TO ITEMS OR SERVICES FOR
21 SUBSTANCE USE DISORDERS, AS DEFINED UNDER THE TERMS OF THE PLAN OR HEALTH INSURANCE COVERAGE AND IN
22 ACCORDANCE WITH APPLICABLE FEDERAL AND STATE LAW. ANY DISORDER DEFINED BY THE PLAN AS BEING OR AS NOT
23 BEING A SUBSTANCE USE DISORDER MUST BE DEFINED TO BE CONSISTENT WITH GENERALLY RECOGNIZED INDEPENDENT
24 STANDARDS OF CURRENT MEDICAL PRACTICE, INCLUDING BUT NOT LIMITED TO THE MOST RECENT EDITION OF THE
25 DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS.

26 ~~(8)~~(9) (10) "Substance use disorder treatment center" means a treatment facility that:

- 27 (a) provides a program for the treatment of substance use disorders pursuant to a written treatment
- 28 plan approved and monitored by a qualified health care provider; and

1 (b) is licensed or approved by the department of public health and human services under 53-24-208
 2 or is licensed or approved by the state where the facility is located."

3

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

5 **"33-35-306. Application of insurance code to arrangements.** (1) In addition to this chapter, self-
 6 funded multiple employer welfare arrangements are subject to the following provisions:

7 (a) 33-1-111;

8 (b) Title 33, chapter 1, part 4, but the examination of a self-funded multiple employer welfare
 9 arrangement is limited to those matters to which the arrangement is subject to regulation under this chapter;

10 (c) Title 33, chapter 1, part 7;

11 (d) Title 33, chapter 2, part 23;

12 (e) 33-3-308;

13 (f) Title 33, chapter 7;

14 (g) Title 33, chapter 18, except 33-18-242;

15 (h) Title 33, chapter 19;

16 (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-
 17 152, and 33-22-153; ~~and~~

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

19 (k) [section 1].

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

23

24 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an
 25 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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27 NEW SECTION. **Section 5. Effective date.** ~~[This act] is effective on passage and approval.~~

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