

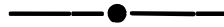
HB 2578 S

FILED

2007 MAR 22 PM 4: 23

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

House Bill No. 2578

(By Delegates Kominar, Craig, Hrutkay, Mahan, Palumbo,
Webster, White, Armstead and Ellem)



Passed March 10, 2007

In Effect from Passage

ENROLLED FILED

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H. B. 2578 OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY DELEGATES KOMINAR, CRAIG, HRUTKAY, MAHAN,
PALUMBO, WEBSTER, WHITE, ARMSTEAD AND ELLEM)

[Passed March 10, 2007; in effect from passage.]

AN ACT to amend and reenact §33-16-3a of the Code of West Virginia, 1931, as amended, relating to extending mental health benefit packages; removing the sunset provision for mandated insurance parity; and removing insurance commissioner reporting requirement.

Be it enacted by the legislature of West Virginia:

That §33-16-3a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

CHAPTER 33. INSURANCE.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS
INSURANCE.**

§33-16-3a. Same -- Mental health.

1 (a)(1) Notwithstanding the requirements of subsection (b)
2 of this section, any health benefits plan described in this
3 article that is delivered, issued or renewed in this state shall
4 provide benefits to all individual subscribers and members
5 and to all group members for expenses arising from treatment
6 of serious mental illness. The expenses do not include

7 custodial care, residential care or schooling. For purposes of
8 this section, "serious mental illness" means an illness
9 included in the American psychiatric association's diagnostic
10 and statistical manual of mental disorders, as periodically
11 revised, under the diagnostic categories or subclassifications
12 of: (i) Schizophrenia and other psychotic disorders; (ii)
13 bipolar disorders; (iii) depressive disorders; (iv) substance-
14 related disorders with the exception of caffeine-related
15 disorders and nicotine-related disorders; (v) anxiety
16 disorders; and (vi) anorexia and bulimia.

17 (2) Notwithstanding any other provision in this section to
18 the contrary, in the event that an insurer can demonstrate
19 actuarially to the insurance commissioner that its total
20 anticipated costs for treatment for mental illness, for any plan
21 will exceed or have exceeded two percent of the total costs
22 for such plan in any experience period, then the insurer may
23 apply whatever cost containment measures may be
24 necessary, including, but not limited to, limitations on
25 inpatient and outpatient benefits, to maintain costs below two
26 percent of the total costs for the plan: *Provided*, That for any
27 group with twenty-five members or less, the insurer may
28 apply such additional cost containment measures as may be
29 necessary if the total anticipated actual costs for the treatment
30 of mental illness will exceed one percent of the total costs for
31 the group.

32 (3) The insurer shall not discriminate between medical-
33 surgical benefits and mental health benefits in the
34 administration of its plan. With regard to both medical-
35 surgical and mental health benefits, it may make
36 determinations of medical necessity and appropriateness, and
37 it may use recognized health care quality and cost
38 management tools, including, but not limited to, utilization
39 review, use of provider networks, implementation of cost
40 containment measures, preauthorization for certain
41 treatments, setting coverage levels including the number of
42 visits in a given time period, using capitated benefit
43 arrangements, using fee-for-service arrangements, using
44 third-party administrators, and using patient cost sharing in
45 the form of copayments, deductibles and coinsurance.

46 (4) The provisions of this subsection shall apply with
47 respect to group health plans for plan years beginning on or
48 after the first day of January, two thousand three.

49 (b) With respect to mental health benefits furnished to an
50 enrollee of a health benefit plan offered in connection with a
51 group health plan, for a plan year beginning on or after the
52 first day of January, one thousand nine hundred ninety-eight,
53 the following requirements shall apply to aggregate lifetime
54 limits and annual limits.

55 (1) Aggregate lifetime limits:

56 (A) If the health benefit plan does not include an
57 aggregate lifetime limit on substantially all medical and
58 surgical benefits, as defined under the terms of the plan but
59 not including mental health benefits, the plan may not impose
60 any aggregate lifetime limit on mental health benefits;

61 (B) If the health benefit plan limits the total amount that
62 may be paid with respect to an individual or other coverage
63 unit for substantially all medical and surgical benefits (in this
64 paragraph, "applicable lifetime limit"), the plan shall either
65 apply the applicable lifetime limit to medical and surgical
66 benefits to which it would otherwise apply and to mental
67 health benefits, as defined under the terms of the plan, and
68 not distinguish in the application of the limit between medical
69 and surgical benefits and mental health benefits, or not
70 include any aggregate lifetime limit on mental health benefits
71 that is less than the applicable lifetime limit;

72 (C) If a health benefit plan not previously described in
73 this subdivision includes no or different aggregate lifetime
74 limits on different categories of medical and surgical
75 benefits, the commissioner shall propose rules for legislative
76 approval in accordance with the provisions of article three,
77 chapter twenty-nine-a of this code under which paragraph (B)
78 of this subdivision shall apply, substituting an average
79 aggregate lifetime limit for the applicable lifetime limit.

80 (2) Annual limits:

81 (A) If a health benefit plan does not include an annual
82 limit on substantially all medical and surgical benefits, as
83 defined under the terms of the plan but not including mental
84 health benefits, the plan may not impose any annual limit on
85 mental health benefits, as defined under the terms of the plan;

86 (B) If the health benefit plan limits the total amount that
87 may be paid in a twelve-month period with respect to an
88 individual or other coverage unit for substantially all medical
89 and surgical benefits (in this paragraph, "applicable annual
90 limit"), the plan shall either apply the applicable annual limit
91 to medical and surgical benefits to which it would otherwise
92 apply and to mental health benefits, as defined under the
93 terms of the plan, and not distinguish in the application of the
94 limit between medical and surgical benefits and mental health
95 benefits, or not include any annual limit on mental health
96 benefits that is less than the applicable annual limit;

97 (C) If a health benefit plan not previously described in
98 this subdivision includes no or different annual limits on
99 different categories of medical and surgical benefits, the
100 commissioner shall propose rules for legislative approval in
101 accordance with the provisions of article three, chapter
102 twenty-nine-a of this code under which paragraph (B) of this
103 subdivision shall apply, substituting an average annual limit
104 for the applicable annual limit.

105 (3) If a group health plan or a health insurer offers a
106 participant or beneficiary two or more benefit package
107 options, this subsection shall apply separately with respect to
108 coverage under each option.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]

Chairman Senate Committee

[Handwritten Signature]

Chairman House Committee

Originating in the House.

In effect from passage.

[Handwritten Signature]

Clerk of the Senate

[Handwritten Signature]

Clerk of the House of Delegates

[Handwritten Signature]

President of the Senate

[Handwritten Signature]

Speaker of the House of Delegates

The within is approved this the 22nd
day of March 2007.

[Handwritten Signature]

Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2007

Time 2:01 pm