State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1340

02/18/2019 Authored by Lien, Cantrell, Zerwas, Albright, Howard and others
The bill was read for the first time and referred to the Committee on Commerce
03/14/2019 Adoption of Report: Amended and re-referred to the Committee on Health and Human Services Policy
03/18/2019 Adoption of Report: Re-referred to the Committee on Ways and Means

A bill for an act

relating to insurance; requiring parity between mental health benefits and other medical benefits; requiring accountability from the commissioners of health and commerce; amending Minnesota Statutes 2018, sections 62Q.01, by adding a subdivision; 62Q.47.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, section 62Q.01, is amended by adding a subdivision to read:

Subd. 6b. **Nonquantitative treatment limitations or NQTLs.** "Nonquantitative treatment limitations" or "NQTLs" means processes, strategies, or evidentiary standards, or other factors that are not expressed numerically, but otherwise limit the scope or duration of benefits for treatment. NQTLs include but are not limited to:

(1) medical management standards limiting or excluding benefits based on (i) medical necessity or medical appropriateness, or (ii) whether the treatment is experimental or investigative;

(2) formulary design for prescription drugs;

(3) health plans with multiple network tiers;

(4) criteria and parameters for provider inclusion in provider networks, including credentialing standards and reimbursement rates;

(5) health plan methods for determining usual, customary, and reasonable charges;

(6) fail-first or step therapy protocols;

(7) exclusions based on failure to complete a course of treatment;

(8) restrictions based on geographic location, facility type, provider specialty, and other criteria that limit the scope or duration of benefits for services provided under the health plan;

(9) in- and out-of-network geographic limitations;

(10) standards for providing access to out-of-network providers;

(11) limitations on inpatient services for situations where the enrollee is a threat to self or others;

(12) exclusions for court-ordered and involuntary holds;

(13) experimental treatment limitations;

(14) service coding;

(15) exclusions for services provided by clinical social workers; and

(16) provider reimbursement rates, including rates of reimbursement for mental health and substance use disorder services in primary care.

Sec. 2. Minnesota Statutes 2018, section 62Q.47, is amended to read:

62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY SERVICES.

(a) All health plans, as defined in section 62Q.01, that provide coverage for alcoholism, mental health, or chemical dependency services, must comply with the requirements of this section.

(b) Cost-sharing requirements and benefit or service limitations for outpatient mental health and outpatient chemical dependency and alcoholism services, except for persons placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to 9530.6655, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for outpatient medical services.

(c) Cost-sharing requirements and benefit or service limitations for inpatient hospital mental health and inpatient hospital and residential chemical dependency and alcoholism services, except for persons placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to 9530.6655, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for inpatient hospital medical services.

(d) A health plan must not impose an NQTL with respect to mental health and substance use disorders in any classification of benefits unless, under the terms of the plan as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to mental health and substance use disorders in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the NQTL with respect to medical and surgical benefits in the same classification.

~~(d)~~ (e) All health plans must meet the requirements of the federal Mental Health Parity Act of 1996, Public Law 104-204; Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008; the Affordable Care Act; and any amendments to, and federal guidance or regulations issued under, those acts.

(f) The commissioner, in consultation with advocates, providers and health plans, may require information from health plans to confirm that mental health parity is being implemented. Information required may include comparisons between mental health and substance use disorder treatment against other health care conditions for other issues, including wait times, prior authorizations, provider credentialing and reimbursement, drug formularies, use of out-of-network providers, out-of-pocket costs, medical necessity, network adequacy, claim denials, adoption of coverage for new treatments, in-home services, rehabilitation services, and other information the commissioner deems appropriate.

(g) Regardless of the care provider's professional license, if the care is consistent with the provider's scope of practice and the health plan's credentialing and contracting provisions, mental health therapy visits and medication maintenance visits are considered primary care visits for the purposes of applying any patient cost-sharing requirements imposed by the health plan. Beginning June 1, 2021, and each year thereafter, the commissioner of commerce, in consultation with the commissioner of health, must issue an updated report to the legislature. The report must:

(1) describe how the commissioners review health plan compliance with United States Code, title 42, section 18031(j), and any federal regulations or guidance relating to compliance and oversight;

(2) describe how the commissioners review compliance with this section and section 62Q.53;

(3) identify enforcement actions taken during the preceding 12-month period regarding compliance with parity for mental health and substance use disorders benefits under state

and federal law and summarize the results of such market conduct examinations. The summary must include:

(i) the number of formal enforcement actions taken;

(ii) the benefit classifications examined in each enforcement action;

(iii) the subject matter of each enforcement action, including quantitative and nonquantitative treatment limitations; and

(iv) a description of how individually identifiable information will be excluded from the reports, consistent with state and federal privacy protections;

(4) detail any corrective actions the commissioners have taken to ensure health plan compliance with this section and section 62Q.53, and United States Code, title 42, section 18031(j);

(5) detail the approach taken by the commissioners relating to informing the public about alcoholism, mental health, or chemical dependency parity protections under state and federal law; and

(6) be written in nontechnical, readily understandable language and must be made available to the public by, among other means as the commissioners find appropriate, posting the report on department websites.