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
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) of this section, any health benefits plan described in this article that is delivered, issued or renewed in this state shall provide benefits to all individual subscribers and members and to all group members for expenses arising from treatment of serious mental illness. The expenses do not include
custodial care, residential care or schooling. For purposes of this section, "serious mental illness" means an illness included in the American psychiatric association’s diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v) anxiety disorders; and (vi) anorexia and bulimia.

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

(3) The insurer shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness, and it may use recognized health care quality and cost management tools, including, but not limited to, utilization review, use of provider networks, implementation of cost containment measures, preauthorization for certain treatments, setting coverage levels including the number of visits in a given time period, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, and using patient cost sharing in the form of copayments, deductibles and coinsurance.
(4) The provisions of this subsection shall apply with respect to group health plans for plan years beginning on or after the first day of January, two thousand three.

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

(1) Aggregate lifetime limits:

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

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

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

(2) Annual limits:
(A) If a health benefit plan does not include an annual
limit on substantially all medical and surgical benefits, as
defined under the terms of the plan but not including mental
health benefits, the plan may not impose any annual limit on
mental health benefits, as defined under the terms of the plan;

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

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

(3) If a group health plan or a health insurer offers a
participant or beneficiary two or more benefit package
options, this subsection shall apply separately with respect to
coverage under each option.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the __th day of __, 2007.

Governor