

P.L. 2019, CHAPTER 58, *approved April 11, 2019*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, No. 2031

1 AN ACT concerning health insurance coverage for ¹**behavioral**
2 health care services and **mental health conditions and substance**
3 use disorders,¹ amending various parts of the statutory law and
4 supplementing P.L.1997, c.192 (C.26:2S-1 et al.).
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. Section 1 of P.L.1999, c.106 (C.17:48-6v) is amended to read
10 as follows:

11 1. a. (1) Every individual and group hospital service corporation
12 contract that provides hospital or medical expense benefits and is
13 delivered, issued, executed or renewed in this State pursuant to
14 P.L.1938, c.366 (C.17:48-1 et seq.), or approved for issuance or
15 renewal in this State by the Commissioner of Banking and Insurance,
16 on or after the effective date of this act shall provide coverage for
17 **biologically-based mental illness** ¹**behavioral health care services**
18 mental health conditions and substance use disorders¹ under the same
19 terms and conditions as provided for any other sickness under the
20 contract and shall meet the requirements of the federal Paul Wellstone
21 and Pete Domenici Mental Health Parity and Addiction Equity Act of
22 2008, 42 U.S.C. 18031(j), and any amendments to, and federal
23 guidance or regulations issued under that act, including 45 C.F.R. Parts
24 146 and 147 and 45 C.F.R. 156.115(a)(3). **["Biologically-based**
25 **mental illness"]**

26 (2) As used in this section:

27 ¹**["Behavioral health care services" means]** ¹**[a mental or nervous**
28 condition that is caused by a biological disorder of the brain and
29 results in a clinically significant or psychological syndrome or pattern
30 that substantially limits the functioning of the person with the illness,
31 including but not limited to, schizophrenia, schizoaffective disorder,
32 major depressive disorder, bipolar disorder, paranoia and other
33 psychotic disorders, obsessive-compulsive disorder, panic disorder and
34 pervasive developmental disorder or autism] ¹**procedures or services**
35 rendered by a health care provider or health care facility for the
36 treatment of mental illness, emotional disorders, pervasive
37 developmental disorder and autism, or drug or alcohol abuse.

EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted March 18, 2019.

²Senate floor amendments adopted March 25, 2019.

1 “Health care facility” means the same as defined in section 2 of
2 P.L.1971, c.136 (C.26:2H-2).

3 “Health care provider” means a health care professional licensed
4 pursuant to Title 45 of the Revised Statutes】

5 “Mental health condition” means a condition defined to be
6 consistent with generally recognized independent standards of current
7 medical practice referenced in the current version of the Diagnostic
8 and Statistical Manual of Mental Disorders¹.

9 "Same terms and conditions" means that the hospital service
10 corporation cannot apply ¹**【different】** more restrictive ²**【non-**
11 **qualitative】** non-quantitative² limitations, such as utilization review
12 and other criteria or more quantitative limitations such as¹
13 copayments, deductibles ¹, aggregate or annual limits¹ or benefit limits
14 to **【biologically-based mental health】** ¹**【behavioral health care**
15 **services】** mental health condition and substance use disorder¹ benefits
16 than those applied to ¹substantially all¹ other medical or surgical
17 benefits.

18 ¹“Substance use disorder” means a disorder defined to be
19 consistent with generally recognized independent standards of current
20 medical practice referenced in the most current version of the
21 Diagnostic and Statistical Manual of Mental Disorders.¹

22 b. **【Nothing in this section shall be construed to change the**
23 **manner in which a hospital service corporation determines:**

24 (1) whether a mental health care service meets the medical
25 necessity standard as established by the hospital service corporation;
26 or

27 (2) which providers shall be entitled to reimbursement for
28 providing services for mental illness under the contract.】 (Deleted by
29 amendment, P.L. , c.) (pending before the Legislature as this bill)

30 c. The provisions of this section shall apply to all contracts in
31 which the hospital service corporation has reserved the right to change
32 the premium.

33 ¹d. Nothing in this section shall reduce the requirement for a
34 hospital service corporation to provide benefits pursuant to section 1 of
35 P.L.2017, c.28 (C.17:48-6nn).¹
36 (cf: P.L.1999, c.106, s.1)

37
38 2. Section 2 of P.L.1999, c.106 (C.17:48A-7u) is amended to read
39 as follows:

40 2. a. (1) Every individual and group medical service corporation
41 contract that provides hospital or medical expense benefits that is
42 delivered, issued, executed or renewed in this State pursuant to
43 P.L.1940, c.74 (C.17:48A-1 et seq.), or approved for issuance or
44 renewal in this State by the Commissioner of Banking and Insurance,
45 on or after the effective date of this act shall provide coverage for
46 **【biologically-based mental illness】** ¹**【behavioral health care services】**

mental health conditions and substance use disorders¹ under the same terms and conditions as provided for any other sickness under the contract and shall meet the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to, and federal guidance or regulations issued under that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3). **["Biologically-based mental illness"]**

(2) As used in this section:

¹["Behavioral health care services" means] **¹ [a mental or nervous condition that is caused by a biological disorder of the brain and results in a clinically significant or psychological syndrome or pattern that substantially limits the functioning of the person with the illness, including but not limited to, schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, panic disorder and pervasive developmental disorder or autism]** **¹ [procedures or services rendered by a health care provider or health care facility for the treatment of mental illness, emotional disorders, pervasive developmental disorder and autism, or drug or alcohol abuse.**

"Health care facility" means the same as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

"Health care provider" means a health care professional licensed pursuant to Title 45 of the Revised Statutes.]

"Mental health condition" means a condition defined to be consistent with generally recognized independent standards of current medical practice referenced in the current version of the Diagnostic and Statistical Manual of Mental Disorders¹.

"Same terms and conditions" means that the medical service corporation cannot apply **¹ [different] more restrictive ² [non-qualitative] non-quantitative² limitations, such as utilization review and other criteria or more quantitative limitations such as¹** copayments, deductibles ¹, aggregate or annual limits¹ or benefit limits to **[biologically-based mental health] ¹ [behavioral health care services] mental health condition and substance use disorder¹** benefits than those applied to ¹substantially all¹ other medical or surgical benefits.

¹ "Substance use disorder" means a disorder defined to be consistent with generally recognized independent standards of current medical practice referenced in the most current version of the Diagnostic and Statistical Manual of Mental Disorders.¹

b. **[Nothing in this section shall be construed to change the manner in which a medical service corporation determines:**

(1) whether a mental health care service meets the medical necessity standard as established by the medical service corporation; or

(2) which providers shall be entitled to reimbursement for providing services for mental illness under the contract.】 (Deleted by amendment, P.L. , c.)(pending before the Legislature as this bill)

c. The provisions of this section shall apply to all contracts in which the medical service corporation has reserved the right to change the premium.

¹d. Nothing in this section shall reduce the requirement for a medical service corporation to provide benefits pursuant to section 2 of P.L.2017, c.28 (C.17:48A-7kk).¹

(cf: P.L.1999, c.106, s.2)

3. Section 3 of P.L.1999, c.106 (C.17:48E-35.20) is amended to read as follows:

3. a. (1) Every individual and group health service corporation contract that provides hospital or medical expense benefits and is delivered, issued, executed or renewed in this State pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act shall provide coverage for **【biologically-based mental illness】** ¹**【behavioral health care services】** mental health conditions and substance use disorders¹ under the same terms and conditions as provided for any other sickness under the contract and shall meet the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to, and federal guidance or regulations issued under that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3). **【"Biologically-based mental illness"】**

(2) As used in this section:

¹**【"Behavioral health care services" means】**¹ **【a mental or nervous condition that is caused by a biological disorder of the brain and results in a clinically significant or psychological syndrome or pattern that substantially limits the functioning of the person with the illness, including but not limited to, schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, panic disorder and pervasive developmental disorder or autism】** ¹**【procedures or services rendered by a health care provider or health care facility for the treatment of mental illness, emotional disorders, pervasive developmental disorder and autism, or drug or alcohol abuse.**

"Health care facility" means the same as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

"Health care provider" means a health care professional licensed pursuant to Title 45 of the Revised Statutes】

"Mental health condition" means a condition defined to be consistent with generally recognized independent standards of current

1 medical practice referenced in the current version of the Diagnostic
2 and Statistical Manual of Mental Disorders¹.

3 "Same terms and conditions" means that the health service
4 corporation cannot apply ¹**[different]** more restrictive ²**[non-**
5 **qualitative]** non-quantitative² limitations, such as utilization review
6 and other criteria or more quantitative limitations such as¹
7 copayments, deductibles ¹, aggregate or annual limits¹ or benefit limits
8 to **[biologically-based mental health]** ¹**[behavioral health care**
9 **services]** mental health condition and substance use disorder¹ benefits
10 than those applied to ¹substantially all¹ other medical or surgical
11 benefits.

12 ¹"Substance use disorder" means a disorder defined to be
13 consistent with generally recognized independent standards of current
14 medical practice referenced in the most current version of the
15 Diagnostic and Statistical Manual of Mental Disorders.¹

16 b. **[Nothing in this section shall be construed to change the**
17 **manner in which the health service corporation determines:**

18 (1) whether a mental health care service meets the medical
19 necessity standard as established by the health service corporation; or

20 (2) which providers shall be entitled to reimbursement for
21 providing services for mental illness under the contract. **]** (Deleted by
22 amendment, P.L. , c.)(pending before the Legislature as this bill)

23 c. The provisions of this section shall apply to all contracts in
24 which the health service corporation has reserved the right to change
25 the premium.

26 ¹d. Nothing in this section shall reduce the requirement for a health
27 service corporation to provide benefits pursuant to section 3 of
28 P.L.2017, c.28 (C.17:48E-35.38).¹

29 (cf: P.L.1999, c.106, s.3)

30

31 4. Section 4 of P.L.1999, c.106 (C.17B:26-2.1s) is amended to
32 read as follows:

33 4. a. (1) Every individual health insurance policy that provides
34 hospital or medical expense benefits and is delivered, issued, executed
35 or renewed in this State pursuant to chapter 26 of Title 17B of the New
36 Jersey Statutes, or approved for issuance or renewal in this State by the
37 Commissioner of Banking and Insurance, on or after the effective date
38 of this act shall provide coverage for **[biologically-based mental**
39 **illness]** ¹**[behavioral health care services]** mental health conditions
40 and substance use disorders¹ under the same terms and conditions as
41 provided for any other sickness under the contract and shall meet the
42 requirements of the federal Paul Wellstone and Pete Domenici Mental
43 Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j),
44 and any amendments to, and federal guidance or regulations issued
45 under that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
46 156.115(a)(3). **["Biologically-based mental illness"]**

1 (2) As used in this section:

2 ¹["Behavioral health care services" means]¹ [a mental or nervous
3 condition that is caused by a biological disorder of the brain and
4 results in a clinically significant or psychological syndrome or pattern
5 that substantially limits the functioning of the person with the illness,
6 including but not limited to, schizophrenia, schizoaffective disorder,
7 major depressive disorder, bipolar disorder, paranoia and other
8 psychotic disorders, obsessive-compulsive disorder, panic disorder and
9 pervasive developmental disorder or autism] ¹[procedures or services
10 rendered by a health care provider or health care facility for the
11 treatment of mental illness, emotional disorders, pervasive
12 developmental disorder and autism, or drug or alcohol abuse.

13 "Health care facility" means the same as defined in section 2 of
14 P.L.1971, c.136 (C.26:2H-2).

15 "Health care provider" means a health care professional licensed
16 pursuant to Title 45 of the Revised Statutes]

17 "Mental health condition" means a condition defined to be
18 consistent with generally recognized independent standards of current
19 medical practice referenced in the current version of the Diagnostic
20 and Statistical Manual of Mental Disorders¹.

21 "Same terms and conditions" means that the insurer cannot apply
22 ¹[different] more restrictive ²[non-qualitative] non-quantitative²
23 limitations, such as utilization review and other criteria or more
24 quantitative limitations such as¹ copayments, deductibles ¹, aggregate
25 or annual limits¹ or benefit limits to [biologically-based mental
26 health] ¹[behavioral health care services] mental health condition and
27 substance use disorder¹ benefits than those applied to ¹substantially
28 all¹ other medical or surgical benefits.

29 ¹"Substance use disorder" means a disorder defined to be
30 consistent with generally recognized independent standards of current
31 medical practice referenced in the most current version of the
32 Diagnostic and Statistical Manual of Mental Disorders.¹

33 b. [Nothing in this section shall be construed to change the
34 manner in which the insurer determines:

35 (1) whether a mental health care service meets the medical
36 necessity standard as established by the insurer; or

37 (2) which providers shall be entitled to reimbursement for
38 providing services for mental illness under the policy.] (Deleted by
39 amendment, P.L. , c.) (pending before the Legislature as this bill)

40 c. The provisions of this section shall apply to all policies in
41 which the insurer has reserved the right to change the premium.

42 ¹d. Nothing in this section shall reduce the requirement for an
43 insurer to provide benefits pursuant to section 4 of P.L.2017, c.28
44 (C.17B:26-2.1hh).¹

45 (cf: P.L.1999, c.106, s.4)

1 5. Section 5 of P.L.1999, c.106 (C.17B:27-46.1v) is amended to
2 read as follows:

3 5. a. (1) Every group health insurance policy that provides
4 hospital or medical expense benefits and is delivered, issued, executed
5 or renewed in this State pursuant to chapter 27 of Title 17B of the New
6 Jersey Statutes, or approved for issuance or renewal in this State by the
7 Commissioner of Banking and Insurance, on or after the effective date
8 of this act shall provide benefits for **【biologically-based mental**
9 **illness】** ¹**【behavioral health care services】** mental health conditions
10 and substance use disorders¹ under the same terms and conditions as
11 provided for any other sickness under the policy and shall meet the
12 requirements of the federal Paul Wellstone and Pete Domenici Mental
13 Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j),
14 and any amendments to, and federal guidance or regulations issued
15 under that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R.
16 156.115(a)(3). **【"Biologically-based mental illness"】**

17 (2) As used in this section:

18 ¹**【"Behavioral health care services" means】**¹ **【a mental or nervous**
19 **condition that is caused by a biological disorder of the brain and**
20 **results in a clinically significant or psychological syndrome or pattern**
21 **that substantially limits the functioning of the person with the illness,**
22 **including but not limited to, schizophrenia, schizoaffective disorder,**
23 **major depressive disorder, bipolar disorder, paranoia and other**
24 **psychotic disorders, obsessive-compulsive disorder, panic disorder and**
25 **pervasive developmental disorder or autism】** ¹**【procedures or services**
26 **rendered by a health care provider or health care facility for the**
27 **treatment of mental illness, emotional disorders, pervasive**
28 **developmental disorder and autism, or drug or alcohol abuse.**

29 "Health care facility" means the same as defined in section 2 of
30 P.L.1971, c.136 (C.26:2H-2).

31 "Health care provider" means a health care professional licensed
32 pursuant to Title 45 of the Revised Statutes】

33 "Mental health condition" means a condition defined to be
34 consistent with generally recognized independent standards of current
35 medical practice referenced in the current version of the Diagnostic
36 and Statistical Manual of Mental Disorders¹.

37 "Same terms and conditions" means that the insurer cannot apply
38 ¹**【different】** more restrictive ²**【non-qualitative】** non-quantitative²
39 limitations, such as utilization review and other criteria or more
40 quantitative limitations such as¹ copayments, deductibles ¹, aggregate
41 or annual limits¹ or benefit limits to **【biologically-based mental**
42 **health】** ¹**【behavioral health care services】** mental health condition and
43 substance use disorder¹ benefits than those applied to ¹substantially
44 all¹ other medical or surgical benefits.

45 ¹"Substance use disorder" means a disorder defined to be
46 consistent with generally recognized independent standards of current

1 medical practice referenced in the most current version of the
2 Diagnostic and Statistical Manual of Mental Disorders.¹

3 b. **Nothing in this section shall be construed to change the**
4 **manner in which the insurer determines:**

5 (1) whether a mental health care service meets the medical
6 necessity standard as established by the insurer; or

7 (2) which providers shall be entitled to reimbursement for
8 providing services for mental illness under the policy. **Deleted by**
9 **amendment, P.L. , c.) (pending before the Legislature as this bill)**

10 c. The provisions of this section shall apply to all policies in
11 which the insurer has reserved the right to change the premium.

12 ¹d. Nothing in this section shall reduce the requirement for an
13 insurer to provide benefits pursuant to section 5 of P.L.2017, c.28
14 (C.17B:27-46.1nn).¹

15 (cf: P.L.1999, c.106, s.5)

16
17 6. Section 6 of P.L.1999, c.106 (C.17B:27A-7.5) is amended to
18 read as follows:

19 6. a. (1) Every individual health benefits plan that provides
20 hospital or medical expense benefits and is delivered, issued, executed
21 or renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et
22 seq.) or approved for issuance or renewal in this State on or after the
23 effective date of this act shall provide benefits for **biologically-based**
24 **mental illness** ¹**behavioral health care services** mental health
25 conditions and substance use disorders¹ under the same terms and
26 conditions as provided for any other sickness under the health benefits
27 plan and shall meet the requirements of the federal Paul Wellstone and
28 Pete Domenici Mental Health Parity and Addiction Equity Act of
29 2008, 42 U.S.C. 18031(j), and any amendments to, and federal
30 guidance or regulations issued under that act, including 45 C.F.R. Parts
31 146 and 147 and 45 C.F.R. 156.115(a)(3). **["Biologically-based**
32 **mental illness"]**

33 (2) As used in this section:

34 ¹**["Behavioral health care services" means]**¹ **[a mental or nervous**
35 **condition that is caused by a biological disorder of the brain and**
36 **results in a clinically significant or psychological syndrome or pattern**
37 **that substantially limits the functioning of the person with the illness,**
38 **including but not limited to, schizophrenia, schizoaffective disorder,**
39 **major depressive disorder, bipolar disorder, paranoia and other**
40 **psychotic disorders, obsessive-compulsive disorder, panic disorder and**
41 **pervasive developmental disorder or autism]** ¹**[procedures or services**
42 **rendered by a health care provider or health care facility for the**
43 **treatment of mental illness, emotional disorders, pervasive**
44 **developmental disorder and autism, or drug or alcohol abuse.**

45 "Health care facility" means the same as defined in section 2 of
46 P.L.1971, c.136 (C.26:2H-2).

1 “Health care provider” means a health care professional licensed
2 pursuant to Title 45 of the Revised Statutes】

3 “Mental health condition” means a condition defined to be
4 consistent with generally recognized independent standards of current
5 medical practice referenced in the current version of the Diagnostic
6 and Statistical Manual of Mental Disorders¹.

7 "Same terms and conditions" means that the plan cannot apply
8 ¹【different】 more restrictive ²【non-qualitative】 non-quantitative²
9 limitations, such as utilization review and other criteria or more
10 quantitative limitations such as¹ copayments, deductibles ¹, aggregate
11 or annual limits¹ or benefit limits to 【biologically-based mental
12 health】 ¹【behavioral health care services】 mental health condition and
13 substance use disorder¹ benefits than those applied to ¹substantially
14 all¹ other medical or surgical benefits.

15 ¹“Substance use disorder” means a disorder defined to be
16 consistent with generally recognized independent standards of current
17 medical practice referenced in the most current version of the
18 Diagnostic and Statistical Manual of Mental Disorders.¹

19 b. 【Nothing in this section shall be construed to change the
20 manner in which the carrier determines:

21 (1) whether a mental health care service meets the medical
22 necessity standard as established by the carrier; or

23 (2) which providers shall be entitled to reimbursement for
24 providing services for mental illness under the plan.】 (Deleted by
25 amendment, P.L. , c.) (pending before the Legislature as this bill)

26 c. The provisions of this section shall apply to all health benefits
27 plans in which the carrier has reserved the right to change the
28 premium.

29 ¹d. Nothing in this section shall reduce the requirement for a plan
30 to provide benefits pursuant to section 6 of P.L.2017, c.28
31 (C.17B:27A-7.21).¹

32 (cf: P.L.1999, c.106, s.6)

33
34 7. Section 7 of P.L.1999, c.106 (C.17B:27A-19.7) is amended to
35 read as follows:

36 7. a. (1) Every small employer health benefits plan that provides
37 hospital or medical expense benefits and is delivered, issued, executed
38 or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et
39 seq.) or approved for issuance or renewal in this State on or after the
40 effective date of this act shall provide benefits for 【biologically-based
41 mental illness】 ¹【behavioral health care services】 mental health
42 conditions and substance use disorders¹ under the same terms and
43 conditions as provided for any other sickness under the health benefits
44 plan and shall meet the requirements of the federal Paul Wellstone and
45 Pete Domenici Mental Health Parity and Addiction Equity Act of
46 2008, 42 U.S.C. 18031(j), and any amendments to, and federal

1 guidance or regulations issued under that act, including 45 C.F.R. Parts
2 146 and 147 and 45 C.F.R. 156.115(a)(3). ["Biologically-based
3 mental illness"]

4 (2) As used in this section:

5 ¹["Behavioral health care services" means]¹ a mental or nervous
6 condition that is caused by a biological disorder of the brain and
7 results in a clinically significant or psychological syndrome or pattern
8 that substantially limits the functioning of the person with the illness,
9 including but not limited to, schizophrenia, schizoaffective disorder,
10 major depressive disorder, bipolar disorder, paranoia and other
11 psychotic disorders, obsessive-compulsive disorder, panic disorder and
12 pervasive developmental disorder or autism] ¹[procedures or services
13 rendered by a health care provider or health care facility for the
14 treatment of mental illness, emotional disorders, pervasive
15 developmental disorder and autism, or drug or alcohol abuse.

16 "Health care facility" means the same as defined in section 2 of
17 P.L.1971, c.136 (C.26:2H-2).

18 "Health care provider" means a health care professional licensed
19 pursuant to Title 45 of the Revised Statutes]

20 "Mental health condition" means a condition defined to be
21 consistent with generally recognized independent standards of current
22 medical practice referenced in the current version of the Diagnostic
23 and Statistical Manual of Mental Disorders¹.

24 "Same terms and conditions" means that the plan cannot apply
25 ¹[different] more restrictive ²[non-qualitative] non-quantitative²
26 limitations, such as utilization review and other criteria or more
27 quantitative limitations such as¹ copayments, deductibles ¹, aggregate
28 or annual limits¹ or benefit limits to [biologically-based mental
29 health] ¹[behavioral health care services] mental health condition and
30 substance use disorder¹ benefits than those applied to ¹substantially
31 all¹ other medical or surgical benefits.

32 ¹"Substance use disorder" means a disorder defined to be
33 consistent with generally recognized independent standards of current
34 medical practice referenced in the most current version of the
35 Diagnostic and Statistical Manual of Mental Disorders.¹

36 b. Nothing in this section shall be construed to change the
37 manner in which the carrier determines:

38 (1) whether a mental health care service meets the medical
39 necessity standard as established by the carrier; or

40 (2) which providers shall be entitled to reimbursement for
41 providing services for mental illness under the health benefits plan.]

42 (Deleted by amendment, P.L. , c.) (pending before the
43 Legislature as this bill)

44 c. The provisions of this section shall apply to all health benefits
45 plans in which the carrier has reserved the right to change the
46 premium.

¹d. Nothing in this section shall reduce the requirement for a plan to provide benefits pursuant to section 7 of P.L.2017, c.28 (C.17B:27A-19.25).¹
(cf: P.L.1999, c.106, s.7)

8. Section 8 of P.L.1999, c.106 (C.26:2J-4.20) is amended to read as follows:

8. a. (1) Every enrollee agreement delivered, issued, executed, or renewed in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.) or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act shall provide health care services for **【biologically-based mental illness】** ¹**【behavioral health care services】** mental health conditions and substance use disorders¹ under the same terms and conditions as provided for any other sickness under the agreement and shall meet the requirements of the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to, and federal guidance or regulations issued under that act, including 45 C.F.R. Parts 146 and 147 and 45 C.F.R. 156.115(a)(3). **【"Biologically-based mental illness"】**

(2) As used in this section:

¹**【"Behavioral health care services" means】**¹ **【a mental or nervous condition that is caused by a biological disorder of the brain and results in a clinically significant or psychological syndrome or pattern that substantially limits the functioning of the person with the illness, including but not limited to, schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, panic disorder and pervasive developmental disorder or autism】** ¹**【procedures or services rendered by a health care provider or health care facility for the treatment of mental illness, emotional disorders, pervasive developmental disorder and autism, or drug or alcohol abuse.**

"Health care facility" means the same as defined in section 2 of P.L.1971, c.136 (C.26:2H-2).

"Health care provider" means a health care professional licensed pursuant to Title 45 of the Revised Statutes.】

"Mental health condition" means a condition defined to be consistent with generally recognized independent standards of current medical practice referenced in the current version of the Diagnostic and Statistical Manual of Mental Disorders¹.

"Same terms and conditions" means that the health maintenance organization cannot apply ¹**【different】** more restrictive ²**【non-qualitative】** non-quantitative² limitations, such as utilization review and other criteria or more quantitative limitations such as¹ copayments, deductibles, ¹ aggregate or annual limits¹ or health care services limits to **【biologically-based mental】** ¹**【behavioral health**

1 care] mental health condition and substance use disorder¹ services
2 than those applied to 'substantially all' other medical or surgical
3 health care services.

4 ¹"Substance use disorder" means a disorder defined to be
5 consistent with generally recognized independent standards of current
6 medical practice referenced in the most current version of the
7 Diagnostic and Statistical Manual of Mental Disorders.¹

8 b. [Nothing in this section shall be construed to change the
9 manner in which a health maintenance organization determines:

10 (1) whether a mental health care service meets the medical
11 necessity standard as established by the health maintenance
12 organization; or

13 (2) which providers shall be entitled to reimbursement or to be
14 participating providers, as appropriate, for mental health services
15 under the enrollee agreement.] (Deleted by amendment,
16 P.L. , c.) (pending before the Legislature as this bill)

17 c. The provisions of this section shall apply to enrollee
18 agreements in which the health maintenance organization has reserved
19 the right to change the premium.

20 ¹d. Nothing in this section shall reduce the requirement for a health
21 maintenance organization to provide benefits pursuant to section 8 of
22 P.L.2017, c.28 (C.26:2J-4.39).¹
23 (cf: P.L.2012, c.17, s.271)

25 9. Section 1 of P.L.1999, c.441 (C.52:14-17.29d) is amended to
26 read as follows:

27 1. As used in this act:

28 ["Biologically-based mental illness"] ¹["Behavioral health care
29 services" means]¹ [a mental or nervous condition that is caused by a
30 biological disorder of the brain and results in a clinically significant or
31 psychological syndrome or pattern that substantially limits the
32 functioning of the person with the illness including, but not limited to,
33 schizophrenia, schizoaffective disorder, major depressive disorder,
34 bipolar disorder, paranoia and other psychotic disorders, obsessive-
35 compulsive disorder, panic disorder and pervasive developmental
36 disorder or autism] ¹[procedures or services rendered by a health care
37 provider or health care facility for the treatment of mental illness,
38 emotional disorders, pervasive developmental disorder and autism, or
39 drug or alcohol abuse.]]¹

40 "Carrier" means an insurance company, health service corporation,
41 hospital service corporation, medical service corporation or health
42 maintenance organization authorized to issue health benefits plans in
43 this State.

44 ¹["Health care facility" means the same as defined in section 2 of
45 P.L.1971, c.136 (C.26:2H-2).

1 “Health care provider” means a health care professional licensed
2 pursuant to Title 45 of the Revised Statutes.】

3 “Mental health condition” means a condition defined to be
4 consistent with generally recognized independent standards of current
5 medical practice referenced in the current version of the Diagnostic
6 and Statistical Manual of Mental Disorders.¹

7 "Same terms and conditions" means that a carrier cannot apply
8 ¹【different】 more restrictive ²【non-qualitative】 non-quantitative²
9 limitations, such as utilization review and other criteria or more
10 quantitative limitations such as¹ copayments, deductibles ¹, aggregate
11 or annual limits¹ or benefit limits to 【biologically-based mental
12 health】 ¹【behavioral health care services】 mental health condition and
13 substance use disorder¹ benefits than those applied to ¹substantially
14 all¹ other medical or surgical benefits.

15 ¹“Substance use disorder” means a disorder defined to be
16 consistent with generally recognized independent standards of current
17 medical practice referenced in the most current version of the
18 Diagnostic and Statistical Manual of Mental Disorders.¹

19 (cf: P.L.1999, c.441, s.1)

20
21 10. Section 2 of P.L.1999, c.441 (C.52:14-17.29e) is amended to
22 read as follows:

23 2. a. The State Health Benefits Commission shall ensure that
24 every contract purchased by the commission on or after the
25 effective date of this act that provides hospital or medical expense
26 benefits shall provide coverage for **【biologically-based mental**
27 **illness】 ¹【behavioral health care services】 mental health conditions**
28 **and substance use disorders¹** under the same terms and conditions
29 as provided for any other sickness under the contract and shall meet
30 the requirements of the federal Paul Wellstone and Pete Domenici
31 Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C.
32 18031(j), and any amendments to, and federal guidance or
33 regulations issued under that act, including 45 C.F.R. Parts 146 and
34 147 and 45 C.F.R. 156.115(a)(3).

35 b. **【Nothing in this section shall be construed to change the**
36 **manner in which a carrier determines:**

37 (1) whether a mental health care service meets the medical
38 necessity standard as established by the carrier; or

39 (2) which providers shall be entitled to reimbursement for
40 providing services for mental illness under the contract.

41 c.】 The commission shall provide notice to employees regarding
42 the coverage required by this section in accordance with this
43 subsection and regulations promulgated by the Commissioner of
44 Health **【and Senior Services】** pursuant to the "Administrative
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The notice
46 shall be in writing and prominently positioned in any literature or

correspondence and shall be transmitted at the earliest of: (1) the next mailing to the employee; (2) the yearly informational packet sent to the employee; or (3) July 1, 2000. The commission shall also ensure that the carrier under contract with the commission, upon receipt of information that a covered person is receiving treatment for **[a biologically-based mental illness]** ¹**[behavioral health care services]** a mental health condition or substance use disorder¹, shall promptly notify that person of the coverage required by this section.

¹c. Nothing in this section shall reduce the requirement for a carrier to provide benefits pursuant to section 9 of P.L.2017, c.28 (C.52:14-17.29u).¹
(cf: P.L.1999, c.441, s.2)

11. (New section) a. For the purposes of this section:

¹**“Behavioral health care services”** means procedures or services rendered by a health care provider or health care facility for the treatment of mental illness, emotional disorders, pervasive developmental disorder and autism, or drug or alcohol abuse.¹

“Benefit limits” includes both quantitative treatment limitations and non-quantitative treatment limitations.

“Carrier” means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State or any entity contracted to administer health benefits in connection with the State Health Benefits Program or School Employees’ Health Benefits Program.

“Classification of benefits” means the classifications of benefits found at 45 C.F.R. 146.136(c)(2)(ii)(A) and 45 C.F.R. 146.136(c)(3)(iii).

“Department” means the Department of Banking and Insurance.

¹“Mental health condition” means a condition defined to be consistent with generally recognized independent standards of current medical practice referenced in the current version of the Diagnostic and Statistical Manual of Mental Disorders.¹

“Non-quantitative treatment limitations” or “NQTL” 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 shall include, but shall not be limited to:

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

(2) Formulary design for prescription drugs;

(3) For plans with multiple network tiers, such as preferred providers and participating providers, network tier design;

- 1 (4) Standards for provider admission to participate in a network,
- 2 including reimbursement rates;
- 3 (5) Plan methods for determining usual, customary, and
- 4 reasonable charges;
- 5 (6) Refusal to pay for higher-cost therapies until it can be shown
- 6 that a lower-cost therapy is not effective, also known as fail-first
- 7 policies or step therapy protocols;
- 8 (7) Exclusions based on failure to complete a course of
- 9 treatment;
- 10 (8) Restrictions based on geographic location, facility type,
- 11 provider specialty, and other criteria that limit the scope or duration
- 12 of benefits for services provided under the plan or coverage;
- 13 (9) In and out-of-network geographic limitations;
- 14 (10) Limitations on inpatient services for situations where the
- 15 participant is a threat to self or others;
- 16 (11) Exclusions for court-ordered and involuntary holds;
- 17 (12) Experimental treatment limitations;
- 18 (13) Service coding;
- 19 (14) Exclusions for services provided by a licensed professional
- 20 who provides ¹**["behavioral health care"]** mental health condition or
- 21 substance use disorder¹ services;
- 22 (15) Network adequacy; and
- 23 (16) Provider reimbursement rates.
- 24 ¹"Substance use disorder" means a disorder defined to be
- 25 consistent with generally recognized independent standards of
- 26 current medical practice referenced in the most current version of
- 27 the Diagnostic and Statistical Manual of Mental Disorders.¹
- 28 b. A carrier shall approve a request for an in-plan exception if
- 29 the carrier's network does not have any providers who are qualified,
- 30 accessible and available to perform the specific medically necessary
- 31 service. A carrier shall communicate the availability of in-plan
- 32 exceptions:
- 33 (1) on its website where lists of network providers are
- 34 displayed; and
- 35 (2) to beneficiaries when they call the carrier to inquire about
- 36 network providers.
- 37 c. A carrier that provides hospital or medical expense benefits
- 38 through individual or group contracts shall submit an annual report
- 39 to the department on or before March 1 ¹**["that contains"]** . The
- 40 annual report shall contain, to the extent that the commissioner
- 41 determines practicable,¹ the following information:
- 42 (1) A description of the process used to develop or select the
- 43 medical necessity criteria for mental health benefits, the process
- 44 used to develop or select the medical necessity criteria for substance
- 45 use disorder benefits, and the process used to develop or select the
- 46 medical necessity criteria for medical and surgical benefits;

- 1 (2) Identification of all NQTLs that are applied to mental health
2 benefits, all NQTLs that are applied to substance use disorder
3 benefits, and all NQTLs that are applied to medical and surgical
4 benefits, including, but not limited to, those listed in subsection a.
5 of this section;
- 6 (3) The results of an analysis that demonstrates that for the
7 medical necessity criteria described in paragraph (1) of this
8 subsection and for selected NQTLs identified in paragraph (2) of
9 this subsection, as written and in operation, the processes,
10 strategies, evidentiary standards, or other factors used to apply the
11 medical necessity criteria and selected NQTLs to ¹["behavioral
12 health care"] mental health condition and substance use disorder¹
13 benefits are comparable to, and are no more stringently applied than
14 the processes, strategies, evidentiary standards, or other factors used
15 to apply the medical necessity criteria and selected NQTLs, as
16 written and in operation, to medical and surgical benefits. A
17 determination of which selected NQTLs require analysis will be
18 determined by the department; at a minimum, the results of the
19 analysis shall entail the following, provided that some NQTLs may
20 not necessitate all of the steps described below:
 - 21 (a) identify the factors used to determine that an NQTL will
22 apply to a benefit, including factors that were considered but
23 rejected;
 - 24 (b) identify and define the specific evidentiary standards ¹, if
25 applicable,¹ used to define the factors and any other evidentiary
26 standards relied upon in designing each NQTL;
 - 27 (c) provide the comparative analyses, including the results of
28 the analyses, performed to determine that the processes and
29 strategies used to design each NQTL, as written, for mental health
30 and substance use disorder benefits are comparable to and applied
31 no more stringently than the processes and strategies used to design
32 each NQTL as written for medical and surgical benefits;
 - 33 (d) provide the comparative analyses, including the results of
34 the analyses, performed to determine that the processes and
35 strategies used to apply each NQTL, in operation, for mental health
36 and substance use disorder benefits are comparable to and applied
37 no more stringently than the processes or strategies used to apply
38 each NQTL in operation for medical and surgical benefits; and
 - 39 (e) disclose the specific findings and conclusions reached by the
40 carrier that the results of the analyses above indicate that the carrier
41 is in compliance with this section and the Paul Wellstone and Pete
42 Domenici Mental Health Parity and Addiction Equity Act of 2008,
43 42 U.S.C. 18031(j), and its implementing and related regulations,
44 which includes 45 C.F.R. 146.136, 45 C.F.R. 147.160, and 45
45 C.F.R. 156.115(a)(3); and
- 46 (4) Any other information necessary to clarify data provided in
47 accordance with this section requested by the Commissioner of

1 Banking and Insurance including information that may be
2 proprietary or have commercial value, provided that no proprietary
3 information shall be made publicly available by the department.

4 d. The department shall implement and enforce applicable
5 provisions of the Paul Wellstone and Pete Domenici Mental Health
6 Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), any
7 amendments to, and federal guidance or regulations issued under
8 that act, including 45 C.F.R. Parts 146 and 147, 45 C.F.R.
9 156.115(a)(3), P.L.1999, c.106 (C.17:48-6v et al.), and section 2 of
10 P.L.1999, c.441 (C.52:14-17.29e), which includes:

11 (1) Ensuring compliance by individual and group contracts,
12 policies, plans, or enrollee agreements delivered, issued, executed,
13 or renewed in this State pursuant to P.L.1938, c.366 (C.17:48-1 et
14 seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985, c.236
15 (C.17:48E-1 et seq.), chapter 26 of Title 17B of the New Jersey
16 Statutes (N.J.S.17B:26-1 et seq.), chapter 27 of Title 17B of the
17 New Jersey Statutes (N.J.S.17B:27-26 et seq.), P.L.1992, c.161
18 (C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.),
19 P.L.1973, c.337 (C.26:2J-1 et seq.), and P.L.1961, c.49 (C.52:14-
20 17.25 et seq.), or approved for issuance or renewal in this State by
21 the Commissioner of Banking and Insurance.

22 (2) Detecting violations of the law by individual and group
23 contracts, policies, plans, or enrollee agreements delivered, issued,
24 executed, or renewed in this State pursuant to P.L.1938, c.366
25 (C.17:48-1 et seq.), P.L.1940, c.74 (C.17:48A-1 et seq.), P.L.1985,
26 c.236 (C.17:48E-1 et seq.), chapter 26 of Title 17B of the New
27 Jersey Statutes (N.J.S.17B:26-1 et seq.), chapter 27 of Title 17B of
28 the New Jersey Statutes (N.J.S.17B:27-26 et seq.), P.L.1992, c.161
29 (C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.),
30 P.L.1973, c.337 (C.26:2J-1 et seq.), and P.L.1961, c.49 (C.52:14-
31 17.25 et seq.), or approved for issuance or renewal in this State by
32 the Commissioner of Banking and Insurance.

33 (3) Accepting, evaluating, and responding to complaints
34 regarding violations.

35 (4) Maintaining and regularly reviewing for possible parity
36 violations a publically available consumer complaint log regarding
37 **‘[behavioral health care] mental health condition and substance use**
38 **disorder**¹ coverage, provided that the names of specific carriers will
39 be redacted and not disclosed on the complaint log.

40 (5) The commissioner shall adopt rules as may be necessary to
41 effectuate any provisions of this section and the Paul Wellstone and
42 Pete Domenici Mental Health Parity and Addiction Equity Act of
43 2008 that relate to the business of insurance.

44 e. Not later than May 1 of each year, the department shall issue
45 a report to the Legislature pursuant to section 2 of P.L.1991, c.164
46 (C.52:14-19.1). The report shall:

1 (1) Describe the methodology the department is using to check
2 for compliance with the Paul Wellstone and Pete Domenici Mental
3 Health Parity and Addiction Equity Act of 2008, 42 U.S.C 18031(j),
4 and any federal regulations or guidance relating to the compliance
5 and oversight of that act.

6 (2) Describe the methodology the department is using to check
7 for compliance with P.L.1999, c.106 (C.17:48-6v et al.) and section
8 2 of P.L.1999, c.441 (C.52:14-17.29e).

9 (3) Identify market conduct examinations conducted or
10 completed during the preceding 12-month period regarding
11 compliance with parity in mental health and substance use disorder
12 benefits under state and federal laws and summarize the results of
13 such market conduct examinations. This shall include:

14 (a) The number of market conduct examinations initiated and
15 completed;

16 (b) The benefit classifications examined by each market conduct
17 examination;

18 (c) The subject matters of each market conduct examination,
19 including quantitative and non-quantitative treatment limitations;

20 (d) A summary of the basis for the final decision rendered in
21 each market conduct examination; and

22 (e) Individually identifiable information shall be excluded from
23 the reports consistent with state and Federal privacy protections.

24 (4) Detail any educational or corrective actions the department
25 has taken to ensure compliance with Paul Wellstone and Pete
26 Domenici Mental Health Parity and Addiction Equity Act of 2008,
27 42 U.S.C 18031(j), P.L.1999, c.106 (C.17:48-6v et al.) and section
28 2 of P.L.1999, c.441 (C.52:14-17.29e).

29 (5) Detail the department's educational approaches relating to
30 informing the public about ¹**【behavioral health care】** mental health
31 condition and substance use disorder¹ parity protections under State
32 and federal law.

33 (6) Be written in non-technical, readily understandable language
34 and shall be made available to the public by, among such other
35 means as the department finds appropriate, posting the report on the
36 department's website.

37 f. The department shall post on its Internet website a report
38 disclosing the department's conclusions as to whether the analyses
39 collected from the carriers as specified in paragraph (3) of
40 subsection c. of this section demonstrate compliance with the
41 Mental Health Parity and Addiction Equity Act of 2008 and its
42 implementing regulations, specifically including whether or not
43 there is compliance with 45 C.F.R. 146.136(c)(4). The name and
44 identity of carriers shall be confidential, shall not be made public by
45 the department, and shall not be subject to public inspection.

1 12. This act shall take effect on the 60th day after enactment and
2 shall apply to all contracts and policies delivered, issued, executed
3 or renewed on or after that date.

5

6

7

8 Enhances enforcement and oversight of mental health condition
9 and substance use disorder parity laws.

9