FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
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SENATE BILL NO. 338

90TH GENERAL ASSEMBLY

Reported from the Committee on Critical Issues, April 28, 1999, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 338 Do Pass.

ANNE C. WALKER, Chief Clerk

L1604.06C

AN ACT

To repeal sections 376.810 and 376.811, RSMo Supp. 1998, relating to mental health insurance, and to enact in lieu thereof nine new sections relating to the same subject, with an expiration date for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 376.810 and 376.811, RSMo Supp. 1998, are repealed and nine new sections enacted in lieu thereof, to be known as sections 376.810, 376.811, 376.825, 376.826, 376.827, 376.828, 376.829, 376.833 and 376.835, to read as follows:

376.810. As used in sections 376.810 to 376.814, the following terms mean:

(1) "Chemical dependency", the psychological or physiological dependence upon and abuse of drugs, including alcohol, characterized by drug tolerance or withdrawal and impairment of social or occupational role functioning or both;

(2) "Community mental health center", a legal entity certified by the department of mental health or accredited by a nationally recognized organization, through which a comprehensive array of mental health services are provided to individuals;

(3) "Day program services", a structured, intensive day or evening treatment or partial hospitalization program, certified by the department of mental health or accredited by a nationally recognized organization;

(4) "Episode", a distinct course of chemical dependency treatment separated by at least thirty days without treatment;

(5) "Health insurance policy", all group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not for profit health services corporation, all self-insured group health benefit plans of any type or description to the extent that regulation of such plans is not preempted by federal law, and all such health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families as nongroup policies, which provide for hospital treatment. For the purposes of subsection 2 of section 376.811, "health insurance policy" shall also include any group or individual contract issued by a health maintenance organization. The provisions of sections 376.810 to 376.814 shall not apply to policies which provide coverage for

a specified disease only, other than for mental illness or chemical dependency;

(6) "Licensed professional", a licensed physician specializing in the treatment of mental illness, a licensed psychologist, a licensed clinical social worker or a licensed professional counselor**. Only prescription rights under this act shall apply to medical physician's and doctors of osteopathy**;

(7) "Managed care", the determination of availability of coverage under a health insurance policy through the use of clinical standards to determine the medical necessity of an admission or treatment, and the level and type of treatment, and appropriate setting for treatment, with required authorization on a prospective, concurrent or retrospective basis, sometimes involving case management;

(8) "Medical detoxification", hospital inpatient or residential medical care to ameliorate acute medical conditions associated with chemical dependency;

(9) "Nonresidential treatment program", program certified by the department of mental health involving structured, intensive treatment in a nonresidential setting;

(10) "Recognized mental illness", those conditions classified as "mental disorders" in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, but shall not include mental retardation;

(11) "Residential treatment program", program certified by the department of mental health involving residential care and structured, intensive treatment;

(12) "Social setting detoxification", a program in a supportive nonhospital setting designed to achieve detoxification, without the use of drugs or other medical intervention, to establish a plan of treatment and provide for medical referral when necessary.

376.811. 1. Every insurance company and health services corporation doing business in this state shall offer in all health insurance policies, benefits or coverage for chemical dependency meeting the following minimum standards:

(1) Coverage for outpatient treatment through a nonresidential treatment program, or through partial- or full-day program services, of not less than twenty-six days per policy benefit period;

(2) Coverage for residential treatment program of not less than twenty-one days per policy benefit period;

(3) Coverage for medical or social setting detoxification of not less than six days per policy benefit period;

(4) The coverages set forth in this subsection may be subject to a separate lifetime frequency cap of not less than ten episodes of treatment, except that such separate lifetime frequency cap shall not apply to medical detoxification in a life-threatening situation as determined by the treating physician and subsequently documented within forty-eight hours of treatment to the reasonable satisfaction of the insurance company or health services corporation; and

(5) The coverages set forth in this subsection shall be:

(a) Subject to the same coinsurance, co-payment and deductible factors as apply to physical illness;

(b) Administered pursuant to a managed care program established by the insurance company or health services corporation; and

(c) Covered services may be delivered through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other

mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. In addition to the coverages set forth in subsection 1 of this section, every insurance company , health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies, benefits or coverages for recognized mental illness, excluding chemical dependency, meeting the following minimum standards:

(1) Coverage for outpatient treatment, including treatment through partial- or full-day program services, for mental health services for a recognized mental illness rendered by a licensed professional to the same extent as any other illness;

(2) Coverage for residential treatment programs for the therapeutic care and treatment of a recognized mental illness when prescribed by a licensed professional and rendered in a psychiatric residential treatment center licensed by the department of mental health or accredited by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

(3) Coverage for inpatient hospital treatment for a recognized mental illness to the same extent as for any other illness, not to exceed ninety days per year;

(4) The coverages set forth in this subsection shall be subject to the same coinsurance, co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical illness; and

(5) The coverages set forth in this subsection may be administered pursuant to a managed care program established by the insurance company , health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

3. The offer required by sections 376.810 to 376.814 may be accepted or rejected by the group or individual policyholder or contract holder and, if accepted, shall fully and completely satisfy and substitute for the coverage under section 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an insurance company, health services corporation or health maintenance organization from including all or part of the coverages set forth in sections 376.810 to 376.814 as standard coverage in their policies or contracts issued in this state.

4. Every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies mental health benefits or coverage as part of the policy or as a supplement to the policy. Such mental health benefits or coverage shall include at least two sessions per year to a licensed psychiatrist, licensed psychologist, licensed professional counselor, or licensed clinical social worker acting within the scope of such license and under the following minimum standards:

(1) Coverage and benefits in this subsection shall be for the purpose of diagnosis or assessment, but not dependent upon findings; and

(2) Coverage and benefits in this subsection shall not be subject to any conditions of preapproval, and shall be deemed reimbursable as long as the provisions of this subsection are satisfied; and

(3) Coverage and benefits in this subsection shall be subject to the same coinsurance, co-payment and deductible factors as apply to regular office visits under coverages and benefits for physical illness.

5. If the group or individual policyholder or contract holder rejects the offer required by this section, then the coverage shall be governed by the mental health and chemical dependency insurance act as provided in sections 376.825 to 376.833.

376.825. Sections 376.825 to 376.833 shall be known and may be cited as the "Mental Health and Chemical Dependency Insurance Act".

376.826. For the purposes of sections 376.825 to 376.833 the following terms shall mean:

(1) "Director", the director of the department of insurance;

(2) "Health insurance policy" or "policy", all group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not for profit health services corporation, all self-insured group health benefit plans of any type or description to the extent that regulation of such plans is not preempted by federal law, and all such health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families as nongroup policies, which provide for hospital treatments. The term shall also include any group or individual contract issued by a health maintenance organization. The provisions of sections 376.825 to 376.835 shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency;

(3) "Insurer", an entity licensed by the department of insurance to offer a health insurance policy;

(4) "Mental illness", the following disorders contained in the International Classification of Diseases (ICD-9-CM):

(a) Schizophrenic disorders and paranoid states (295 and 297, except 297.3);

(b) Major depression, bipolar disorder, and other affective psychoses (296);

(c) Obsessive compulsive disorder, post-traumatic stress disorder and other major anxiety disorders (300.0, 300.21, 300.22, 300.23, 300.3 and 309.81);

(d) Early childhood psychoses, and other disorders first diagnosed in childhood or adolescence (299.8, 312.8, 313.81 and 314);

(e) Alcohol and drug abuse (291, 292, 303, 304, and 305, except 305.1);

(f) Anorexia nervosa, bulimia and other severe eating disorders (307.1, 307.51, 307.52 and 307.53); and

(g) Senile organic and psychotic conditions (290);

(5) "Rate", "term", or "condition", any lifetime limits, annual payment limits, episodic limits, inpatient or outpatient service limits, and out-of-pocket limits. This definition does not include deductibles, co-payments, or coinsurance prior to reaching any maximum out-of-pocket limit. Any out-of-pocket limit under a policy shall be comprehensive for coverage of mental illness and physical conditions.

376.827. 1. Nothing in this bill shall be construed as requiring the coverage of mental illness.

2. If any mental illness benefits are provided by the health insurance policy, the coverage provided shall not establish any rate, term, or condition that places a greater financial burden on an insured for access to evaluation and treatment for mental illness than for access to evaluation and treatment for physical conditions, generally, except that alcohol and other drug abuse services shall be provided under this act only to persons who are diagnosed with both a mental illness and an alcohol and other drug dependency. For

persons who are suspected of suffering from both a mental illness and an alcohol and other drug abuse dependency, such persons shall be eligible for coverage under this act for one detoxification session not to exceed four days. Persons who subsequently are duly diagnosed with both a mental illness and alcohol or other drug dependency shall have a limit of forty-five days total inpatient treatment and a limit of twenty total visits for outpatient treatment for each year of coverage. The days allowed for inpatient treatment can be converted for use for outpatient treatment on a two-for-one basis.

3. Deductibles, copayments or coinsurance amounts for access to evaluation and treatment for mental illness shall not be unreasonable in relation to the cost of services provided.

4. A health insurance policy shall be construed to be in compliance with this section if the policy is issued by a federally-qualified health maintenance organization and in the discretion of the director provides coverage for mental health services that are equivalent to or exceed those coverages required by sections 376.825 to 376.833.

5. The director may disapprove any policy that the director determines to be inconsistent with the purposes of this section.

376.828. 1. The coverages set forth in sections 376.825 to 376.835 may be administered pursuant to a managed care program established by the insurance company, health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. An insurer may use a case management program for mental illness benefits to evaluate and determine medically necessary and clinically appropriate care and treatment for each patient.

3. Nothing in sections 376.825 to 376.835 shall be construed to require a managed care plan as defined by section 354.600, RSMo, when providing coverage for benefits governed by sections 376.825 to 376.835, to cover services rendered by a provider other than a participating provider. An insurer may contract for benefits provided in sections 376.825 to 376.835 with a managing entity or group of providers for the management and delivery of services for benefits governed by sections 376.825 to 376.835.

376.829. 1. The provisions of section 376.827 shall not be violated if the insurer decides to apply different limits or exclude entirely from coverage the following:

(1) Marital, family, educational, or training services unless medically necessary and clinically appropriate;

(2) Services rendered or billed by a school or halfway house;

(3) Care that is custodial in nature;

(4) Services and supplies that are not medically necessary nor clinically appropriate; or

(5) Treatments that are considered experimental.

2. The director shall grant a policyholder a waiver from the provisions of section 376.827 if the policyholder demonstrates to the director by actual experience over any consecutive twenty-four-month period that compliance with sections 376.825 to 376.833

has increased the cost of the health insurance policy by an amount that results in a two percent increase in premium costs to the policyholder.

376.833. 1. The provisions of sections 376.825 to 376.833 apply to applications for coverage made on or after January 1, 2000, and to health insurance policies issued or renewed on or after such date to residents of this state. Multi-year group policies need not comply until the expiration of their current multi-year term unless the policyholder elects to comply before that time.

2. The director shall perform a study to assess the impact of the mental health and substance abuse insurance act on insurers, business interests, providers, and consumers of mental health and substance abuse treatment services. The director shall report the findings of this study to the general assembly by January 1, 2004.

376.835. Notwithstanding the provision of subsection 1 of section 376.827, all health insurance policies which cover state employees including the Missouri consolidated health care plan shall include coverage for mental illness. Multi-year group policies need not comply until the expiration of their current multi-year term unless the policyholder elects to comply before that time.

Section B. The provisions of sections 376.825 to 376.835 shall expire on January 1, 2005.