

1 **CATASTROPHIC MENTAL HEALTH**

2 **INSURANCE COVERAGE**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Judy Ann Buffmire**

6 AN ACT RELATING TO INSURANCE; DEFINING TERMS; REQUIRING THAT HEALTH
7 INSURANCE POLICIES APPLY THE SAME LIFETIME LIMITS, ANNUAL PAYMENT
8 LIMITS, AND OUT-OF-POCKET LIMITS TO MENTAL HEALTH CONDITIONS AS APPLY
9 TO PHYSICAL HEALTH CONDITIONS; PERMITTING THE USE OF MANAGED CARE
10 AND OTHER DEVICES TO ENSURE THAT TREATMENT IS MEDICALLY NECESSARY
11 AND CLINICALLY APPROPRIATE; APPLYING EXISTING LAWS TO HEALTH
12 MAINTENANCE ORGANIZATIONS THAT USE PREFERRED PROVIDER CONTRACTS
13 IN PROVIDING MENTAL HEALTH SERVICES; REQUIRING THAT SERVICES BE
14 PROVIDED BY LICENSED THERAPISTS AND FACILITIES; PERMITTING EMPLOYERS
15 TO SEEK A HARDSHIP EXEMPTION; IMPOSING DUTIES ON THE COMMISSIONER TO
16 ADOPT RULES, ENFORCE THE ACT, AND CONDUCT A STUDY; AND PROVIDING A
17 REPEAL DATE.

18 This act affects sections of Utah Code Annotated 1953 as follows:

19 AMENDS:

20 **63-55-231**, as last amended by Chapter 131, Laws of Utah 1999

21 ENACTS:

22 **31A-22-625**, Utah Code Annotated 1953

23 *Be it enacted by the Legislature of the state of Utah:*

24 Section 1. Section **31A-22-625** is enacted to read:

25 **31A-22-625. Catastrophic coverage of mental health conditions.**

26 (1) As used in this section:

27 (a) (i) "Mental health condition" means any condition or disorder involving mental illness

28 that falls under any of the diagnostic categories listed in the mental disorders section of the
29 International Classification of Diseases, as periodically revised.

30 (ii) "Mental health condition" does not include the following when diagnosed as the
31 primary or substantial reason or need for treatment:

32 (A) marital or family problem;

33 (B) social, occupational, religious, or other social maladjustment;

34 (C) conduct disorder;

35 (D) chronic adjustment disorder;

36 (E) psychosexual disorder;

37 (F) chronic organic brain syndrome;

38 (G) personality disorder;

39 (H) developmental disorder or learning disability; or

40 (I) mental retardation.

41 (b) (i) "Rate, term, or condition" means any lifetime limit, annual payment limit, episodic
42 limit, inpatient or outpatient service limit, and out-of-pocket limit.

43 (ii) "Rate, term, or condition" does not include any deductible, copayment, or coinsurance
44 prior to reaching any maximum out-of-pocket limit.

45 (iii) Out-of-pocket expenses for mental health conditions and physical health conditions
46 shall apply equally to any out-of-pocket limit within a policy or contract.

47 (2) This section shall apply to:

48 (a) health insurance policies and health maintenance organization contracts issued or
49 renewed after January 1, 2001; and

50 (b) health plans, as a matter of contract, that the state offers to its employees after July 1,
51 2001.

52 (3) Except as provided in Subsection (5), a policy or contract:

53 (a) shall provide coverage for the diagnosis and treatment of mental health conditions; and

54 (b) may not establish any rate, term, or condition that places a greater financial burden on
55 an insured for the diagnosis and treatment of a mental health condition than for the diagnosis and
56 treatment of a covered physical health condition.

57 (4) (a) A policy or contract may provide coverage for the diagnosis and treatment of
58 mental health conditions through a managed care organization or system, regardless of whether

59 the policy or contract uses a managed care organization or system for the treatment of physical
60 health conditions, provided that the managed care organization or system is in compliance with
61 the rules adopted by the commissioner pursuant to Subsection (7)(b).

62 (b) Notwithstanding Sections 31A-8-103, 31A-22-618, and any other provision of this
63 title, a health maintenance organization contract shall be subject to Sections 31A-22-617 and
64 31A-22-618 in providing coverage for the diagnosis and treatment of mental health conditions to
65 the extent that the contract uses preferred health care provider contracts to provide such coverage.

66 (c) Nothing in this section may be construed as prohibiting an insurer from managing the
67 provision of covered benefits for mental health conditions to that which is medically necessary and
68 clinically appropriate.

69 (d) To be eligible for coverage under this section, a diagnosis or treatment of a mental
70 health condition must be rendered:

71 (i) by a mental health therapist as defined in Section 58-60-102; or

72 (ii) in a health care facility licensed or otherwise authorized to provide mental health
73 services pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, or
74 Title 62A, Chapter 2, Licensure of Programs and Facilities, that provides a program for the
75 treatment of a mental health condition pursuant to a written plan.

76 (5) (a) An employer that provides a policy or contract to two or more employees that is
77 subject to this section may request a hardship exemption from the commissioner.

78 (b) The commissioner may only grant a hardship exemption if the employer shows by clear
79 and convincing evidence that compliance with this section over the course of 12 or more months
80 has put the continued viability of the employer's business into question.

81 (c) Administrative proceedings held in relation to this Subsection (5) shall comply with
82 Section 31A-2-203.5.

83 (6) The commissioner may disapprove any policy or contract that the commissioner
84 determines to be inconsistent with the provisions of this section.

85 (7) The commissioner shall adopt rules to ensure that:

86 (a) timely and appropriate access to mental health treatment is available; and

87 (b) administrative and clinical protocols do not serve to reduce access to medically
88 necessary and clinically appropriate mental health treatment for any insured.

89 (8) (a) The commissioner shall perform a study before November 1, 2004, to assess the

90 impact of this section on insurers, employers, providers, and consumers of mental health services.

91 (b) The commissioner shall report the findings of the study before November 1, 2004, to:

92 (i) the Health and Human Services Interim Committee; and

93 (ii) the Business, Labor, and Economic Development Interim Committee.

94 (9) Nothing in this section may be construed as restricting the ability of an insurer to offer
95 greater coverage or benefits for the diagnosis and treatment of mental health conditions than is
96 required by this section.

97 (10) This section shall be repealed in accordance with Section 63-55-231.

98 Section 2. Section **63-55-231** is amended to read:

99 **63-55-231. Repeal dates, Title 31A.**

100 (1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2005.

101 (2) Section 31A-22-315, Motor Vehicle Insurance Reporting, is repealed July 1, 2000.

102 (3) Title 31A, Chapter 31, Insurance Fraud Act, is repealed July 1, 2007.

103 (4) Section 31A-22-625, Catastrophic Coverage of Mental Health Conditions, is repealed
104 July 1, 2011.

Legislative Review Note
as of 1-7-00 11:47 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel