

1                   **CATASTROPHIC MENTAL HEALTH COVERAGE - SUNSET**

2                                   **ACT**

3   2011 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: James A. Dunnigan**

6   Senate Sponsor: John L. Valentine

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8   **LONG TITLE**

9   **General Description:**

10           This bill modifies the Insurance Code and the Legislative Oversight and Sunset Act to  
11 address catastrophic mental health coverage.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ removes a catastrophic mental health coverage provision from the Legislative  
15 Oversight and Sunset Act; and  
16           ▶ makes technical and conforming amendments.

17 **Money Appropriated in this Bill:**

18           None

19 **Other Special Clauses:**

20           None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23           **31A-22-625**, as last amended by Laws of Utah 2010, Chapters 10 and 68

24           **63I-1-231**, as last amended by Laws of Utah 2010, Chapters 68 and 319

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

27           Section 1. Section **31A-22-625** is amended to read:

28           **31A-22-625. Catastrophic coverage of mental health conditions.**

29           (1) As used in this section:

30 (a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan  
31 that does not impose a lifetime limit, annual payment limit, episodic limit, inpatient or  
32 outpatient service limit, or maximum out-of-pocket limit that places a greater financial burden  
33 on an insured for the evaluation and treatment of a mental health condition than for the  
34 evaluation and treatment of a physical health condition.

35 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing  
36 factors, such as deductibles, copayments, or coinsurance, before reaching a maximum  
37 out-of-pocket limit.

38 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket  
39 limit for physical health conditions and another maximum out-of-pocket limit for mental health  
40 conditions, except that if separate out-of-pocket limits are established, the out-of-pocket limit  
41 for mental health conditions may not exceed the out-of-pocket limit for physical health  
42 conditions.

43 (b) (i) "50/50 mental health coverage" means coverage in a health benefit plan that  
44 pays for at least 50% of covered services for the diagnosis and treatment of mental health  
45 conditions.

46 (ii) "50/50 mental health coverage" may include a restriction on:

- 47 (A) episodic limits;
- 48 (B) inpatient or outpatient service limits; or
- 49 (C) maximum out-of-pocket limits.

50 (c) "Large employer" is as defined in 42 U.S.C. Sec. 300gg-91.

51 (d) (i) "Mental health condition" means a condition or disorder involving mental illness  
52 that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as  
53 periodically revised.

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

- 56 (A) a marital or family problem;
- 57 (B) a social, occupational, religious, or other social maladjustment;

- 58 (C) a conduct disorder;
- 59 (D) a chronic adjustment disorder;
- 60 (E) a psychosexual disorder;
- 61 (F) a chronic organic brain syndrome;
- 62 (G) a personality disorder;
- 63 (H) a specific developmental disorder or learning disability; or
- 64 (I) mental retardation.
- 65 (e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

66 (2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer  
67 that it insures or seeks to insure a choice between catastrophic mental health coverage and  
68 50/50 mental health coverage.

69 (b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

- 70 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels  
71 that exceed the minimum requirements of this section; or
- 72 (ii) coverage that excludes benefits for mental health conditions.

73 (c) A small employer may, at its option, choose either catastrophic mental health  
74 coverage, 50/50 mental health coverage, or coverage offered under Subsection (2)(b),  
75 regardless of the employer's previous coverage for mental health conditions.

76 (d) An insurer is exempt from the 30% index rating restriction in Section  
77 31A-30-106.1 and, for the first year only that catastrophic mental health coverage is chosen, the  
78 15% annual adjustment restriction in Section 31A-30-106.1, for any small employer with 20 or  
79 less enrolled employees who chooses coverage that meets or exceeds catastrophic mental  
80 health coverage.

81 (3) An insurer shall offer a large employer mental health and substance use disorder  
82 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.  
83 300gg-5, and federal regulations adopted pursuant to that act.

84 (4) (a) An insurer may provide catastrophic mental health coverage to a small employer  
85 through a managed care organization or system in a manner consistent with Chapter 8, Health

86 Maintenance Organizations and Limited Health Plans, regardless of whether the insurance  
87 policy uses a managed care organization or system for the treatment of physical health  
88 conditions.

89 (b) (i) Notwithstanding any other provision of this title, an insurer may:

90 (A) establish a closed panel of providers for catastrophic mental health coverage; and

91 (B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider

92 unless:

93 (I) the insured is referred to a nonpanel provider with the prior authorization of the  
94 insurer; and

95 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment  
96 guidelines.

97 (ii) If an insured receives services from a nonpanel provider in the manner permitted by  
98 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the  
99 average amount paid by the insurer for comparable services of panel providers under a  
100 noncapitated arrangement who are members of the same class of health care providers.

101 (iii) This Subsection (4)(b) may not be construed as requiring an insurer to authorize a  
102 referral to a nonpanel provider.

103 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a  
104 mental health condition must be rendered:

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

106 (ii) in a health care facility:

107 (A) licensed or otherwise authorized to provide mental health services pursuant to:

108 (I) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or

109 (II) Title 62A, Chapter 2, Licensure of Programs and Facilities; and

110 (B) that provides a program for the treatment of a mental health condition pursuant to a  
111 written plan.

112 (5) The commissioner may prohibit an insurance policy that provides mental health  
113 coverage in a manner that is inconsistent with this section.

- 114 (6) The commissioner shall:
- 115 (a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
- 116 Rulemaking Act, as necessary to ensure compliance with this section; and
- 117 (b) provide general figures on the percentage of insurance policies that include:
- 118 (i) no mental health coverage;
- 119 (ii) 50/50 mental health coverage;
- 120 (iii) catastrophic mental health coverage; and
- 121 (iv) coverage that exceeds the minimum requirements of this section.
- 122 (7) This section may not be construed as discouraging or otherwise preventing an
- 123 insurer from providing mental health coverage in connection with an individual insurance
- 124 policy.
- 125 [~~(8) This section shall be repealed in accordance with Section 63I-1-231.~~]
- 126 Section 2. Section **63I-1-231** is amended to read:
- 127 **63I-1-231. Repeal dates, Title 31A.**
- 128 (1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2015.
- 129 (2) Section 31A-2-217, Coordination with other states, is repealed July 1, 2013.
- 130 [~~(3) Section 31A-22-625, Catastrophic coverage of mental health conditions, is~~
- 131 ~~repealed July 1, 2011.~~]
- 132 [~~(4)~~ (3) Chapter 42a, Utah Statewide Risk Adjuster Act, is repealed July 1, 2016.