

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 **Committee Note:**

10           The Business and Labor Interim Committee recommended this bill.

11 **General Description:**

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

14 **Highlighted Provisions:**

15           This bill:

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

19 **Money Appropriated in this Bill:**

20           None

21 **Other Special Clauses:**

22           None

23 **Utah Code Sections Affected:**

24 **AMENDS:**

25           **31A-22-625**, as last amended by Laws of Utah 2010, Chapters 10 and 68

26           **63I-1-231**, as last amended by Laws of Utah 2010, Chapters 68 and 319



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

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

30 **31A-22-625. Catastrophic coverage of mental health conditions.**

31 (1) As used in this section:

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

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

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

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

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

49 (A) episodic limits;

50 (B) inpatient or outpatient service limits; or

51 (C) maximum out-of-pocket limits.

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

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

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

58 (A) a marital or family problem;

- 59 (B) a social, occupational, religious, or other social maladjustment;
- 60 (C) a conduct disorder;
- 61 (D) a chronic adjustment disorder;
- 62 (E) a psychosexual disorder;
- 63 (F) a chronic organic brain syndrome;
- 64 (G) a personality disorder;
- 65 (H) a specific developmental disorder or learning disability; or
- 66 (I) mental retardation.

67 (e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

68 (2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer  
69 that it insures or seeks to insure a choice between catastrophic mental health coverage and  
70 50/50 mental health coverage.

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

72 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels  
73 that exceed the minimum requirements of this section; or

74 (ii) coverage that excludes benefits for mental health conditions.

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

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

83 (3) An insurer shall offer a large employer mental health and substance use disorder  
84 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.  
85 300gg-5, and federal regulations adopted pursuant to that act.

86 (4) (a) An insurer may provide catastrophic mental health coverage to a small employer  
87 through a managed care organization or system in a manner consistent with Chapter 8, Health  
88 Maintenance Organizations and Limited Health Plans, regardless of whether the insurance  
89 policy uses a managed care organization or system for the treatment of physical health

90 conditions.

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

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

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

94 unless:

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

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

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

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

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

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

108 (ii) in a health care facility:

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

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

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

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

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

116 (6) The commissioner shall:

117 (a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
118 Rulemaking Act, as necessary to ensure compliance with this section; and

119 (b) provide general figures on the percentage of insurance policies that include:

120 (i) no mental health coverage;

- 121 (ii) 50/50 mental health coverage;
- 122 (iii) catastrophic mental health coverage; and
- 123 (iv) coverage that exceeds the minimum requirements of this section.
- 124 (7) This section may not be construed as discouraging or otherwise preventing an
- 125 insurer from providing mental health coverage in connection with an individual insurance
- 126 policy.
- 127 [~~(8) This section shall be repealed in accordance with Section 63I-1-231.~~]
- 128 Section 2. Section **63I-1-231** is amended to read:
- 129 **63I-1-231. Repeal dates, Title 31A.**
- 130 (1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2015.
- 131 (2) Section 31A-2-217, Coordination with other states, is repealed July 1, 2013.
- 132 [~~(3) Section 31A-22-625, Catastrophic coverage of mental health conditions, is~~
- 133 ~~repealed July 1, 2011.~~]
- 134 [~~(4)~~ (3) Chapter 42a, Utah Statewide Risk Adjuster Act, is repealed July 1, 2016.

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**Legislative Review Note**  
as of 8-25-10 6:42 AM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 14, 2011 General Session

SHORT TITLE: Catastrophic Mental Health Coverage - Sunset Act

SPONSOR: **Dunnigan, J.**

STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.