

1 **MENTAL HEALTH ACCESS AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Luz Escamilla**

5 House Sponsor: Stewart E. Barlow

7 **LONG TITLE**

8 **Committee Note:**

9 The Health and Human Services Interim Committee recommended this bill.

10 Legislative Vote: 14 voting for 0 voting against 3 absent

11 **General Description:**

12 This bill amends an insurer's responsibilities for catastrophic mental health conditions.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ defines terms; and

16 ▶ allows a diagnosis or treatment of a mental health condition to do be done via
17 telehealth services.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **31A-22-625**, as last amended by Laws of Utah 2014, Chapters 290 and 300

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) an intellectual disability.

65 (e) "Mental health therapist" means the same as that term is defined in Section
66 58-60-102 and includes an individual licensed under Section 58-1-302.

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

68 (g) "Telehealth services" means the same as that term is defined in Section 26-60-102.

69 (2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer
70 that it insures or seeks to insure a choice between:

- 71 (i) (A) catastrophic mental health coverage; or
72 (B) federally qualified mental health coverage as described in Subsection (3); and
73 (ii) 50/50 mental health coverage.

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

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

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

78 (c) A small employer may, at its option, regardless of the employer's previous coverage
79 for mental health conditions, choose either:

- 80 (i) coverage offered under Subsection (2)(a)(i);
81 (ii) 50/50 mental health coverage; or
82 (iii) coverage offered under Subsection (2)(b).

83 (d) An insurer is exempt from the 30% index rating restriction in Section
84 [31A-30-106.1](#) and, for the first year only that the employer chooses coverage that meets or
85 exceeds catastrophic mental health coverage, the 15% annual adjustment restriction in Section
86 [31A-30-106.1](#), for a small employer with 20 or less enrolled employees who chooses coverage
87 that meets or exceeds catastrophic mental health coverage.

88 (3) (a) An insurer shall offer a large employer mental health and substance use disorder
89 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.

90 300gg-26, and federal regulations adopted pursuant to that act.

91 (b) An insurer shall provide in an individual or small employer health benefit plan,
92 mental health and substance use disorder benefits in compliance with Sections 2705 and 2711
93 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-26, and federal regulations adopted
94 pursuant to that act.

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

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

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

102 (B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider
103 unless:

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

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

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

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

114 ~~(c)~~ (5) To be eligible for catastrophic mental health coverage, a diagnosis or
115 treatment of a mental health condition shall be rendered:

116 ~~(i)~~ (a) by a mental health therapist ~~[as defined in Section 58-60-102, or],~~ practicing
117 within the scope of the mental health therapist's license, through:

118 (i) in-person services; or

119 (ii) telehealth services if the insurer determines that telehealth services meet the
120 appropriate standard of care for the diagnosis or treatment; or

121 ~~[(ii)]~~ (b) in a health care facility:
122 ~~[(A)]~~ (i) licensed or otherwise authorized to provide mental health services pursuant to:
123 ~~[(F)]~~ (A) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or
124 ~~[(H)]~~ (B) Title 62A, Chapter 2, Licensure of Programs and Facilities; and
125 ~~[(B)]~~ (ii) that provides a program for the treatment of a mental health condition
126 pursuant to a written plan.

127 (6) A mental health therapist shall comply with Section [26-60-103](#) for services
128 rendered under Subsection (5)(a)(ii).

129 ~~[(5)]~~ (7) The commissioner may prohibit an insurance policy that provides mental
130 health coverage in a manner that is inconsistent with this section.

131 ~~[(6)]~~ (8) The commissioner may adopt rules, in accordance with Title 63G, Chapter 3,
132 Utah Administrative Rulemaking Act, as necessary to ensure compliance with this section.