

MENTAL HEALTH TREATMENT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies the Accident and Health Insurance provisions of the Insurance Code to address mental health coverage requirements for health plans offered by certain governmental entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires health plans offered by a governmental entity that opts out of the federal Mental Health Parity and Addiction Equity Act (the act) to substantially comply with the act, including the act's financial requirements and treatment limitations; and
- ▶ provides limitations that a governmental entity may place on residential treatment coverage.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-605.5, as last amended by Laws of Utah 2012, Chapter 127



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

Section 1. Section **31A-22-605.5** is amended to read:

31A-22-605.5. Application -- State mental health parity and addiction equity requirement for exempt governmental entities.

(1) For purposes of this section [~~"insurance~~]:

(a) "Exempt governmental entity" means a governmental entity whose employer-sponsored health plan opts out of the Mental Health Parity and Addiction Equity Act in accordance with 42 U.S.C. Sec. 300gg-21(a)(2).

(b) "Governmental entity" means:

(i) the state;

(ii) a political subdivision of the state, as defined in Section [63G-7-102](#);

(iii) a law enforcement agency, as defined in Section [53-1-102](#), that employs one or more law enforcement officers, as defined in Section [53-13-103](#); or

(iv) an institution of higher education.

(c) "Insurance mandate":

~~[(a)]~~ (i) means a mandatory obligation with respect to coverage, benefits, or the number or types of providers imposed on policies of accident and health insurance; and

~~[(b)]~~ (ii) does not mean:

~~[(i)]~~ (A) an administrative rule imposing a mandatory obligation with respect to coverage, benefits, or providers unless that mandatory obligation was specifically imposed on policies of accident and health insurance by statute; or

~~[(ii)]~~ (B) an insurance mandate in an essential health benefits package imposed pursuant to the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and federal rules related to their implementation.

(d) "Mental Health Parity and Addiction Equity Act" means 42 U.S.C. Sec. 300gg-26.

(e) "Residential treatment" means the same as that term is defined in Section [62A-2-101](#).

(f) "Substance use disorder benefit" means the same as that term is defined in 26 C.F.R. Sec. 54.9812-1(a).

59 (2) (a) Notwithstanding the provisions of Subsection 31A-1-103(3)(f), the following
60 shall apply to health coverage offered to the state employees' risk pool under Subsection
61 49-20-202(1)(a):

62 (i) any law enacted under this title that becomes effective after January 1, 2002, which
63 provides for an insurance mandate for policies of accident and health insurance; and

64 (ii) in accordance with Section 31A-22-613.5, disclosure requirements for coverage
65 limitations.

66 (b) Notwithstanding the provisions of Subsection 31A-1-103(3)(f), a health insurance
67 mandate enacted under this title after January 1, 2012, shall apply to:

68 (i) health coverage offered to the state employees' risk pool under Subsection
69 49-20-202(1)(a); and

70 (ii) health coverage offered to public school districts, charter schools, and institutions
71 of higher education under Subsection 49-20-201(1)(b).

72 (c) If health coverage offered to the state employees' risk pool under Subsections
73 49-20-201(1)(b) and 49-20-202(1)(a) offers coverage in the same manner and to the same
74 extent as the coverage required by an insurance mandate enacted under this title or coverage
75 that is greater than the insurance mandate enacted under this title, the coverage offered to state
76 employees under Subsections 49-20-201(1)(b) and 49-20-202(1)(a) will be considered in
77 compliance with the insurance mandate.

78 (d) (i) The programs regulated under Subsections 49-20-201(1)(b) and 49-20-202(1)(a)
79 shall report to the Retirement and Independent Entities Committee created under Section
80 63E-1-201 by November 30 of each year in which a mandate is enacted under the provisions of
81 this section.

82 (ii) The report shall include the costs and benefits of the particular mandatory
83 obligation.

84 (3) (a) An insurance mandate for policies of accident and health insurance enacted
85 under this title after January 1, 2012, shall apply to a health plan offered by a public school
86 district, a charter school, or a state funded institution of higher education that is not insured
87 through the Public Employees' Benefit and Insurance Program.

88 (b) If an insurance mandate for policies of accident and health insurance is enacted
89 under this title after January 1, 2012, the state shall determine whether each entity described in

90 Subsections (2) and (3)(a) offers coverage in the same manner and to the same extent, or
91 greater than the insurance coverage required in the mandate enacted after January 1, 2012.

92 (c) Before enacting an insurance mandate, the state shall, for each entity that does not
93 offer coverage in accordance with Subsection (3)(b):

94 (i) determine the cost to the entity of implementing the insurance mandate; and

95 (ii) appropriate money necessary to fund the full cost to the entity of implementing the
96 insurance mandate.

97 (4) (a) Notwithstanding the provisions of Subsection 31A-1-103(3)(f), a health plan
98 offered by an exempt governmental entity shall substantially comply in good faith with the
99 Mental Health Parity and Addiction Equity Act, including:

100 (i) using the same financial requirements for mental health and substance use disorder
101 benefits as for medical and surgical benefits; and

102 (ii) using quantitative treatment limitation requirements and non-quantitative treatment
103 limitation requirements, except as permitted by Subsection (4)(b).

104 (b) In covering mental health and substance use residential treatment, a health plan
105 offered by an exempt governmental entity may:

106 (i) develop preauthorization and participating provider standards at parity with benefits
107 provided for treatment at skilled nursing facilities;

108 (ii) limit participating provider status for reasons other than to reduce access to covered
109 services at parity with benefits provided for treatment at skilled nursing facilities; and

110 (iii) refer to the health plan's coverage of skilled nursing facilities for purposes of
111 quantitative treatment limitation requirements.

112 (c) Nothing in this Subsection (4) may be construed as altering an exempt
113 governmental entity's exempt status under 42 U.S.C. Sec. 300gg-21(a)(2).