HB0081S01 compared with HB0081

~~{deleted text}~~ shows text that was in HB0081 but was deleted in HB0081S01.

inserted text shows text that was not in HB0081 but was inserted into HB0081S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Brian S. King proposes the following substitute bill:

MENTAL HEALTH TREATMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{addresses mental health coverage}~~provides requirements for prescription drug coverage for serious mental illness by health benefit 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;~~
- ~~provides limitations that a governmental entity may place on residential treatment coverage; and~~

- ~~makes technical changes}~~prohibits a health benefit plan from requiring a covered individual to try alternative prescription drugs before receiving the prescription drug the health care provider prescribed;
- authorizes the limited use of step-therapy protocol; and
- provides the circumstances under which a health benefit plan shall provide an exception to a step-therapy protocol.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

~~{AMENDS}~~ENACTS:

~~{31A-22-605}~~31A-22-650.5,~~{ as last amended by Laws of}~~ Utah ~~{2012, Chapter 127}~~Code Annotated 1953

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

Section 1. Section ~~{**31A-22-605**}~~**31A-22-650.5** is ~~{amended}~~enacted to read:

~~{**31A-22-605**}~~**31A-22-650.5.~~~~{ 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}~~ **Prescription drug coverage for serious mental illness.**

(1) As used in this section:

(a) "Adult enrollee" means an enrollee who is 18 years old or older.

(b) "Drug" 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).~~

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

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

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

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

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

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

~~(c) If health coverage offered to the state employees' risk pool under Subsections~~

~~49-20-201(1)(b) and 49-20-202(1)(a) offers coverage in the same manner and to the same extent as the coverage required by an insurance mandate enacted under this title or coverage that is greater than the insurance mandate enacted under this title, the coverage offered to state employees under Subsections 49-20-201(1)(b) and 49-20-202(1)(a) will be considered in);~~58-17b-102.

(c) "Preferred prescription drug" means a drug that is:

(i) prescribed by a health care provider to treat a serious mental illness;

(ii) determined by a health care provider in consultation with the adult enrollee as the most appropriate course of treatment for the adult enrollee's serious mental illness; and

(iii) approved by the United States Food and Drug Administration.

(d) "Serious mental illness" means the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual (DSM):

(i) bipolar disorders (hypomanic, manic, depressive, and mixed);

(ii) depression in adolescence;

(iii) major depressive disorders (single episode or recurrent);

(iv) obsessive-compulsive disorders;

(v) paranoid and other psychotic disorders;

(vi) post-traumatic stress disorder;

(vii) schizo-affective disorders (bipolar or depressive); and

(viii) schizophrenia.

(2) A health benefit plan that provides coverage for a serious mental illness may not require, before the health benefit plan provides coverage of a preferred prescription drug, that the adult enrollee:

(a) fail to successfully respond to more than one different drug prescribed to treat a serious mental illness, excluding the generic or pharmaceutical equivalent of the prescribed drug; or

(b) prove a history of failure on more than one different drug, excluding the generic or pharmaceutical equivalent of the prescribed drug.

(3) A health benefit plan may implement a step-therapy protocol to require a trial of a generic or pharmaceutical equivalent of a preferred prescription drug as a condition of continued coverage of the drug only:

(a) once in a plan year per adult enrollee; and

(b) if the equivalent drug is added to the health benefit plan's drug formulary.

(4) A health benefit plan shall grant a written request for an exception to a step-therapy protocol for a preferred prescription drug if the request includes the prescribing health care provider's written statement that any of the following conditions are met:

(a) the drug required under the step-therapy protocol:

(i) is contraindicated;

(ii) is likely to cause an adverse reaction in or physical or mental harm to the adult enrollee; or

(iii) is expected to be ineffective based on the known clinical characteristics of the adult enrollee and the known characteristics of the prescription drug regimen;

(b) the adult enrollee previously discontinued taking the drug required under the step-therapy protocol, or another drug in the same pharmacologic class or with the same mechanism of action as the required drug, while under the health benefit plan currently in force or while covered under another health benefit plan because the drug:

(i) was not effective;

(ii) had a diminished effect; or

(iii) caused an adverse event;

(c) the drug required under the step-therapy protocol is not in the best interest of the adult enrollee, based on clinical appropriateness, because the adult enrollee's use of the drug is expected to:

(i) cause a significant barrier to the adult enrollee's adherence to or compliance with the ~~{insurance mandate.~~

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

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

~~(3) (a) An insurance mandate for policies of accident and health insurance enacted under this title after January 1, 2012, shall apply to a health plan offered by a public school~~

~~district, a charter school, or a state funded institution of higher education that is not insured through the Public Employees' Benefit and Insurance Program.~~

~~(b) If an insurance mandate for policies of accident and health insurance is enacted under this title after January 1, 2012, the state shall determine whether each entity described in Subsections (2) and (3)(a) offers coverage in the same manner and to the same extent, or greater than the insurance coverage required in the mandate enacted after January 1, 2012.~~

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

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

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

~~(4) (a) Notwithstanding the}~~adult enrollee's plan of care;

(ii) worsen a comorbid condition of the adult enrollee; or

(iii) decrease the adult enrollee's ability to achieve or maintain reasonable functional ability in performing daily activities; or

(d) (i) the drug that is subject to the step-therapy protocol was prescribed for the adult enrollee's condition;

(ii) the adult enrollee:

(A) received benefits for the preferred prescription drug under the health benefit plan currently in force or a previous health benefit plan; and

(B) is stable on the preferred prescription drug; and

(iii) the change in the adult enrollee's prescription drug regimen required by the step-therapy protocol is expected to be ineffective or cause harm to the adult enrollee based on the known clinical characteristics of the adult enrollee and the known characteristics of the required prescription drug regimen.

(5) Subsections (2) through (4) do not preclude a pharmacist from substituting a generic equivalent or one or more interchangeable biological products for a preferred prescription drug.

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

~~(i) using the same or less restrictive financial requirements for mental health and substance use disorder benefits as for medical and surgical benefits; and~~

~~(ii) except as provided in Subsection (4)(b), using quantitative treatment limitation}~~this section apply notwithstanding any prohibition on an insurer modifying preauthorization requirements ~~{and non-quantitative treatment limitation requirements.~~

~~(b) In covering mental health and substance use residential treatment, a health plan offered by an exempt governmental entity may refer to the health plan's coverage of skilled nursing facilities for purposes of quantitative and non-quantitative treatment limitation requirements.~~

~~(c) This Subsection (4) does not alter an exempt governmental entity's exempt status under 42 U.S.C. Sec. 300gg-21(a)(2).~~

~~(d) This Subsection (4)}~~for a drug under Section 31A-22-650.

(7) This section applies to a health plan that is entered into or renewed on or after July 1, 2023.