

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1440
91ST GENERAL ASSEMBLY

Reported from the Committee on Critical Issues, Consumer Protection and Housing, March 7, 2002, with recommendation that the House Committee Substitute for House Bill No. 1440 Do Pass.

TED WEDEL, Chief Clerk

3113L.04C

AN ACT

To repeal sections 376.779, 376.810, 376.811, 376.814, 376.825, 376.826, 376.827, 376.830, 376.833, 376.836, and 376.840, RSMo, and to enact in lieu thereof one new section relating to insurance coverage for mental health.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 376.779, 376.810, 376.811, 376.814, 376.825, 376.826, 376.827, 2 376.830, 376.833, 376.836, and 376.840, RSMo, are repealed and one new section enacted in 3 lieu thereof, to be known as section 376.1550, to read as follows:

376.1550. 1. Notwithstanding any other provision of law to the contrary, each 2 health carrier that offers or issues health benefit plans which are delivered, issued for 3 delivery, continued, or renewed in this state on or after January 1, 2003, shall provide 4 coverage for a mental health condition, as defined in this section, and shall comply with the 5 following provisions:

6 **(1) A health benefit plan shall provide coverage for treatment of a mental health 7 condition and shall not establish any rate, term, or condition that places a greater financial 8 burden on an insured for access to treatment for a mental health condition than for access 9 to treatment for a physical health condition. Any deductible or out-of-pocket limits 10 required by a health carrier or health benefit plan shall be comprehensive for coverage of 11 all health conditions, whether mental or physical;**

12 **(2) A health benefit plan that does not otherwise provide for management of care 13 under the plan or that does not provide for the same degree of management of care for all**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 health conditions may provide coverage for treatment of mental health conditions through
15 a managed care organization; provided that the managed care organization is in
16 compliance with rules adopted by the department of insurance that assure that the system
17 for delivery of treatment for mental health conditions does not diminish or negate the
18 purpose of this section. The rules adopted by the director shall assure that:

19 (a) Timely and appropriate access to care is available;

20 (b) The quantity, location, and specialty distribution of health care providers is
21 adequate; and

22 (c) Administrative or clinical protocols do not serve to reduce access to medically
23 necessary treatment for any insured;

24 (3) A health benefit plan shall be construed to be in compliance with this section
25 if at least one choice for treatment of mental health conditions provided to the insured
26 within the plan has rates, terms, and conditions that place no greater financial burden on
27 the insured that for access to treatment of physical conditions.

28 2. As used in this section, the following terms mean:

29 (1) "Health benefit plan", the same meaning as such term is defined in section
30 376.1350;

31 (2) "Health carrier", the same meaning as such term is defined in section 376.1350;

32 (3) "Mental health condition", any condition or disorder defined by categories
33 listed in the most recent edition of the Diagnostic and Statistical Manual of Mental
34 Disorders;

35 (4) "Managed care organization", any financing mechanism or system that
36 manages care delivery for its members or subscribers, including health maintenance
37 organizations and any other similar health care delivery system or organization;

38 (5) "Rate, term, or condition", any lifetime or annual payment limits, deductibles,
39 copayments, coinsurance, and other cost-sharing requirements, out-of-pocket limits, visit
40 limits, and any other financial component of a health benefit plan that affects the insured.

41 3. This section shall not apply to a supplemental insurance policy, including a life
42 care contract, accident-only policy, specified disease policy, hospital policy providing a
43 fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term
44 major medical policies of six months or less duration, or any other supplemental policy as
45 determined by the director of the department of insurance.

2 [376.779. 1. All group health insurance policies providing coverage on an
3 expense-incurred basis, all group service or indemnity contracts issued by a
4 not-for-profit health service corporation, all self-insured group health benefit plans,
5 of any type or description, and all such health plans or policies that are individually
underwritten or provide for such coverage for specific individuals and the members

6 of their families as nongroup policies, which provide for hospital treatment, shall
7 provide coverage, while confined in a hospital or in a residential or nonresidential
8 facility certified by the department of mental health, for treatment of alcoholism on
9 the same basis as coverage for any other illness, except that coverage may be limited
10 to thirty days in any policy or contract benefit period. All Missouri group contracts
11 issued or renewed, and all Missouri individual contracts issued on or after December
12 31, 1980, shall be subject to this section. Coverage required by this section shall be
13 included in the policy or contract and payment provided as for other coverage in the
14 same policy or contract notwithstanding any construction or relationship of
15 interdependent contracts or plans affecting coverage and payment of reimbursement
16 prerequisites under the policy or contract.

17 2. Insurers, corporations or groups providing coverage may approve for
18 payment or reimbursement vendors and programs providing services or treatment
19 required by this section. Any vendor or person offering services or treatment subject
20 to the provisions of this section and seeking approval for payment or reimbursement
21 shall submit to the department of mental health a detailed description of the services
22 or treatment program to be offered. The department of mental health shall make
23 copies of such descriptions available to insurers, corporations or groups providing
24 coverage under the provisions of this section. Each insurer, corporation or group
25 providing coverage shall notify the vendor or person offering service or treatment as
26 to its acceptance or rejection for payment or reimbursement; provided, however,
27 payment or reimbursement shall be made for any service or treatment program
28 certified by the department of mental health. Any notice of rejection shall contain
29 a detailed statement of the reasons for rejection and the steps and procedures
30 necessary for acceptance. Amended descriptions of services or treatment programs
31 to be offered may be filed with the department of mental health. Any vendor or
32 person rejected for approval of payment or reimbursement may modify their
33 description and treatment program and submit copies of the amended description to
34 the department of mental health and to the insurer, corporation or group which
35 rejected the original description.

36 3. The department of mental health may issue rules necessary to carry out the
37 provisions of this section. No rule or portion of a rule promulgated under the
38 authority of this section shall become effective unless it has been promulgated
39 pursuant to the provisions of section 536.024, RSMo.

40 4. All substance abuse treatment programs in Missouri receiving funding
41 from the Missouri department of mental health must be certified by the department.]

[376.810. As used in sections 376.810 to 376.814, the following terms mean:

2 (1) "Chemical dependency", the psychological or physiological dependence
3 upon and abuse of drugs, including alcohol, characterized by drug tolerance or
4 withdrawal and impairment of social or occupational role functioning or both;

5 (2) "Community mental health center", a legal entity certified by the
6 department of mental health or accredited by a nationally recognized organization,
7 through which a comprehensive array of mental health services are provided to

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- individuals;
- (3) "Day program services", a structured, intensive day or evening treatment or partial hospitalization program, certified by the department of mental health or accredited by a nationally recognized organization;
- (4) "Episode", a distinct course of chemical dependency treatment separated by at least thirty days without treatment;
- (5) "Health insurance policy", all group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not for profit health services corporation, all self-insured group health benefit plans of any type or description to the extent that regulation of such plans is not preempted by federal law, and all such health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families as nongroup policies, which provide for hospital treatment. For the purposes of subsection 2 of section 376.811, "health insurance policy" shall also include any group or individual contract issued by a health maintenance organization. The provisions of sections 376.810 to 376.814 shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency;
- (6) "Licensed professional", a licensed physician specializing in the treatment of mental illness, a licensed psychologist, a licensed clinical social worker or a licensed professional counselor. Only prescription rights under this act shall apply to medical physician's and doctors of osteopathy;
- (7) "Managed care", the determination of availability of coverage under a health insurance policy through the use of clinical standards to determine the medical necessity of an admission or treatment, and the level and type of treatment, and appropriate setting for treatment, with required authorization on a prospective, concurrent or retrospective basis, sometimes involving case management;
- (8) "Medical detoxification", hospital inpatient or residential medical care to ameliorate acute medical conditions associated with chemical dependency;
- (9) "Nonresidential treatment program", program certified by the department of mental health involving structured, intensive treatment in a nonresidential setting;
- (10) "Recognized mental illness", those conditions classified as "mental disorders" in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, but shall not include mental retardation;
- (11) "Residential treatment program", program certified by the department of mental health involving residential care and structured, intensive treatment;
- (12) "Social setting detoxification", a program in a supportive nonhospital setting designed to achieve detoxification, without the use of drugs or other medical intervention, to establish a plan of treatment and provide for medical referral when necessary.]

[376.811. 1. Every insurance company and health services corporation doing business in this state shall offer in all health insurance policies, benefits or coverage for chemical dependency meeting the following minimum standards:

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(1) Coverage for outpatient treatment through a nonresidential treatment program, or through partial- or full-day program services, of not less than twenty-six days per policy benefit period;

(2) Coverage for residential treatment program of not less than twenty-one days per policy benefit period;

(3) Coverage for medical or social setting detoxification of not less than six days per policy benefit period;

(4) The coverages set forth in this subsection may be subject to a separate lifetime frequency cap of not less than ten episodes of treatment, except that such separate lifetime frequency cap shall not apply to medical detoxification in a life-threatening situation as determined by the treating physician and subsequently documented within forty-eight hours of treatment to the reasonable satisfaction of the insurance company or health services corporation; and

(5) The coverages set forth in this subsection shall be:

(a) Subject to the same coinsurance, co-payment and deductible factors as apply to physical illness;

(b) Administered pursuant to a managed care program established by the insurance company or health services corporation; and

(c) Covered services may be delivered through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. In addition to the coverages set forth in subsection 1 of this section, every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies, benefits or coverages for recognized mental illness, excluding chemical dependency, meeting the following minimum standards:

(1) Coverage for outpatient treatment, including treatment through partial- or full-day program services, for mental health services for a recognized mental illness rendered by a licensed professional to the same extent as any other illness;

(2) Coverage for residential treatment programs for the therapeutic care and treatment of a recognized mental illness when prescribed by a licensed professional and rendered in a psychiatric residential treatment center licensed by the department of mental health or accredited by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

(3) Coverage for inpatient hospital treatment for a recognized mental illness to the same extent as for any other illness, not to exceed ninety days per year;

(4) The coverages set forth in this subsection shall be subject to the same coinsurance, co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical illness; and

(5) The coverages set forth in this subsection may be administered pursuant to a managed care program established by the insurance company, health services

47 corporation or health maintenance organization, and covered services may be
48 delivered through a system of contractual arrangements with one or more providers,
49 community mental health centers, hospitals, nonresidential or residential treatment
50 programs, or other mental health service delivery entities certified by the department
51 of mental health, or accredited by a nationally recognized organization, or licensed
52 by the state of Missouri.

53 3. The offer required by sections 376.810 to 376.814 may be accepted or
54 rejected by the group or individual policyholder or contract holder and, if accepted,
55 shall fully and completely satisfy and substitute for the coverage under section
56 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an insurance
57 company, health services corporation or health maintenance organization from
58 including all or part of the coverages set forth in sections 376.810 to 376.814 as
59 standard coverage in their policies or contracts issued in this state.

60 4. Every insurance company, health services corporation and health
61 maintenance organization doing business in this state shall offer in all health
62 insurance policies mental health benefits or coverage as part of the policy or as a
63 supplement to the policy. Such mental health benefits or coverage shall include at
64 least two sessions per year to a licensed psychiatrist, licensed psychologist, licensed
65 professional counselor, or licensed clinical social worker acting within the scope of
66 such license and under the following minimum standards:

67 (1) Coverage and benefits in this subsection shall be for the purpose of
68 diagnosis or assessment, but not dependent upon findings; and

69 (2) Coverage and benefits in this subsection shall not be subject to any
70 conditions of preapproval, and shall be deemed reimbursable as long as the
71 provisions of this subsection are satisfied; and

72 (3) Coverage and benefits in this subsection shall be subject to the same
73 coinsurance, co-payment and deductible factors as apply to regular office visits under
74 coverages and benefits for physical illness.

75 5. If the group or individual policyholder or contract holder rejects the offer
76 required by this section, then the coverage shall be governed by the mental health and
77 chemical dependency insurance act as provided in sections 376.825 to 376.835.]

2 [376.814. 1. The department of insurance shall promulgate rules and
3 regulations, pursuant to section 376.982 and chapter 536, RSMo, and the department
4 of mental health shall advise the department of insurance on the promulgation of said
5 rules and regulations as they pertain to the development and implementation of all
6 standards and guidelines for managed care as set out in sections 376.810 to 376.814,
7 to ensure that all mental health services provided pursuant to sections 376.810 to
8 376.814 are provided in accordance with chapters 197, 334, 337, RSMo, and section
9 630.655, RSMo, provided however, that nothing in this act shall prohibit department
10 of mental health licensed or certified facilities or programs from using qualified
11 mental health professionals or other specialty staff persons.

12 2. Any person who serves or served on a quality assessment and assurance
committee required under 42 U.S.C. Sec. 1396r(b)(1)(B) and 42 CFR Sec. 483.75(r),

13 or as amended, shall be immune from civil liability only for acts done directly as a
 14 member of such committee so long as the acts are performed in good faith, without
 15 malice and are required by the activities of such committee as defined in 42 CFR Sec.
 16 483.75(r).]

2 [376.825. Sections 376.825 to 376.840 shall be known and may be cited as
 the "Mental Health and Chemical Dependency Insurance Act".]

2 [376.826. For the purposes of sections 376.825 to 376.840 the following
 terms shall mean:

3 (1) "Director", the director of the department of insurance;

4 (2) "Health insurance policy" or "policy", all group health insurance policies
 5 providing coverage on an expense-incurred basis, all group service or indemnity
 6 contracts issued by a not for profit health services corporation, all self-insured group
 7 health benefit plans of any type or description to the extent that regulation of such
 8 plans is not preempted by federal law, and all such health insurance policies or
 9 contracts that are individually underwritten or provide such coverage for specific
 10 individuals and members of their families as nongroup policies, which provide for
 11 hospital treatments. The term shall also include any group or individual contract
 12 issued by a health maintenance organization. The provisions of sections 376.825 to
 13 376.840 shall not apply to policies which provide coverage for a specified disease
 14 only, other than for mental illness or chemical dependency;

15 (3) "Insurer", an entity licensed by the department of insurance to offer a
 16 health insurance policy;

17 (4) "Mental illness", the following disorders contained in the International
 18 Classification of Diseases (ICD-9-CM):

19 (a) Schizophrenic disorders and paranoid states (295 and 297, except 297.3);

20 (b) Major depression, bipolar disorder, and other affective psychoses (296);

21 (c) Obsessive compulsive disorder, post-traumatic stress disorder and other
 22 major anxiety disorders (300.0, 300.21, 300.22, 300.23, 300.3 and 309.81);

23 (d) Early childhood psychoses, and other disorders first diagnosed in
 24 childhood or adolescence (299.8, 312.8, 313.81 and 314);

25 (e) Alcohol and drug abuse (291, 292, 303, 304, and 305, except 305.1); and

26 (f) Anorexia nervosa, bulimia and other severe eating disorders (307.1,
 27 307.51, 307.52 and 307.53);

28 (g) Senile organic psychotic conditions (290);

29 (5) "Rate", "term", or "condition", any lifetime limits, annual payment limits,
 30 episodic limits, inpatient or outpatient service limits, and out-of-pocket limits. This
 31 definition does not include deductibles, co-payments, or coinsurance prior to
 32 reaching any maximum out-of-pocket limit. Any out-of-pocket limit under a policy
 33 shall be comprehensive for coverage of mental illness and physical conditions.]

2 [376.827. 1. Nothing in this bill shall be construed as requiring the coverage
 of mental illness.

3 2. Except for the coverage required pursuant to subsection 1 of section
 4 376.779, and the offer of coverage required pursuant to sections 376.810 through

5 376.814, if any of the mental illness disorders enumerated in subdivision (4) of
6 section 376.826 are provided by the health insurance policy, the coverage provided
7 shall include all the disorders enumerated in subdivision (4) of section 376.826 and
8 shall not establish any rate, term, or condition that places a greater financial burden
9 on an insured for access to evaluation and treatment for mental illness than for access
10 to evaluation and treatment for physical conditions, generally, except that alcohol and
11 other drug abuse services shall have a minimum of thirty days total inpatient
12 treatment and a minimum of twenty total visits for outpatient treatment for each year
13 of coverage. A lifetime limit equal to four times such annual limits may be imposed.
14 The days allowed for inpatient treatment can be converted for use for outpatient
15 treatment on a two-for-one basis.

16 3. Deductibles, co-payment or coinsurance amounts for access to evaluation
17 and treatment for mental illness shall not be unreasonable in relation to the cost of
18 services provided.

19 4. A health insurance policy that is a federally qualified plan of benefits shall
20 be construed to be in compliance with sections 376.825 to 376.836 if the policy is
21 issued by a federally qualified health maintenance organization and the federally
22 qualified health maintenance organization offered mental health coverage as required
23 by sections 376.825 to 376.836. If such coverage is rejected, the federally qualified
24 health maintenance organization shall, at a minimum, provide coverage for mental
25 health services as a basic health service as required by the Federal Public Health
26 Service Act, 42 U.S.C. Section 300e., et seq.

27 5. Health insurance policies that provide mental illness benefits pursuant to
28 sections 376.825 to 376.840 shall be deemed to be in compliance with the
29 requirements of subsection 1 of section 376.779.

30 6. The director may disapprove any policy that the director determines to be
31 inconsistent with the purposes of this section.]

2 [376.830. 1. The coverages set forth in sections 376.825 to 376.840 may be
3 administered pursuant to a managed care program established by the insurance
4 company, health services corporation or health maintenance organization, and
5 covered services may be delivered through a system of contractual arrangements with
6 one or more licensed providers, community mental health centers, hospitals,
7 nonresidential or residential treatment programs, or other mental health service
8 delivery entities certified by the department of mental health, or accredited by a
9 nationally recognized organization, or licensed by the state of Missouri. Nothing in
10 this section shall authorize any unlicensed provider to provide covered services.

11 2. An insurer may use a case management program for mental illness benefits
12 to evaluate and determine medically necessary and clinically appropriate care and
13 treatment for each patient.

14 3. Nothing in sections 376.825 to 376.840 shall be construed to require a
15 managed care plan as defined by section 354.600, RSMo, when providing coverage
16 for benefits governed by sections 376.825 to 376.840, to cover services rendered by
a provider other than a participating provider, except for the coverage pursuant to

17 subsection 4 of section 376.811. An insurer may contract for benefits provided in
18 sections 376.825 to 376.840 with a managing entity or group of providers for the
19 management and delivery of services for benefits governed by sections 376.825 to
20 376.840.]

[376.833. 1. The provisions of section 376.827 shall not be violated if the
2 insurer decides to apply different limits or exclude entirely from coverage the
3 following:

4 (1) Marital, family, educational, or training services unless medically
5 necessary and clinically appropriate;

6 (2) Services rendered or billed by a school or halfway house;

7 (3) Care that is custodial in nature;

8 (4) Services and supplies that are not medically necessary nor clinically
9 appropriate; or

10 (5) Treatments that are considered experimental.

11 2. The director shall grant a policyholder a waiver from the provisions of
12 section 376.827 if the policyholder demonstrates to the director by actual experience
13 over any consecutive twenty-four-month period that compliance with sections
14 376.825 to 376.840 has increased the cost of the health insurance policy by an
15 amount that results in a two percent increase in premium costs to the policyholder.]

[376.836. 1. The provisions of sections 376.825 to 376.840 apply to
2 applications for coverage made on or after January 1, 2000, and to health insurance
3 policies issued or renewed on or after such date to residents of this state. Multiyear
4 group policies need not comply until the expiration of their current multiyear term
5 unless the policyholder elects to comply before that time.

6 2. The director shall perform a study to assess the impact of the mental health
7 and substance abuse insurance act on insurers, business interests, providers, and
8 consumers of mental health and substance abuse treatment services. The director
9 shall report the findings of this study to the general assembly by January 1, 2004.]

[376.840. Notwithstanding the provision of subsection 1 of section 376.827,
2 all health insurance policies which cover state employees including the Missouri
3 consolidated health care plan shall include coverage for mental illness. Multiyear
4 group policies need not comply until the expiration of their current multiyear term
5 unless the policyholder elects to comply before that time.]