

SECOND REGULAR SESSION

HOUSE BILL NO. 1440

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RIBACK WILSON (25), HARLAN, NAEGER, KREIDER,
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DAUS, FOLEY, FRASER, HOLAND, HOSMER, JOHNSON (61), MAY (149), MOORE, O'TOOLE,
SHOEMYER (9), VILLA, WILLIAMS AND WILSON (42).

Read 1st time January 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3113L.03I

AN ACT

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2 376.833, 376.836 and 376.840, RSMo, are repealed and one new section enacted in lieu thereof,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

**376.1550. 1. Each health carrier or health benefit plan, defined in section 376.1350,
2 that offers or issues health benefit plans which are delivered, issued for delivery, continued
3 or renewed in this state on or after January 1, 2003, shall comply with the following
4 provisions:**

5 **(1) Cost-sharing requirements and benefit or service limitations for outpatient
6 mental health and outpatient addictive disorder services shall not place a greater financial
7 burden on the insured or enrollee or be more restrictive than the requirements and
8 limitations for outpatient medical services;**

9 **(2) Cost-sharing requirements and benefit or service limitations for inpatient
10 hospital mental health and inpatient hospital and residential addictive disorder services
11 shall not place a greater financial burden on the insured or enrollee or be more restrictive
12 than the requirements and limitations for inpatient hospital medical services.**

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

13 **2. This section shall not apply to a supplemental insurance policy, including a life**
14 **care contract, accident-only policy, specified disease policy, hospital policy providing a**
15 **fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term**
16 **major medical policies of six months or less duration, or any other supplemental policy as**
17 **determined by the director of the department of insurance.**

[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
8 individuals;

9 (3) "Day program services", a structured, intensive day or evening treatment
10 or partial hospitalization program, certified by the department of mental health or
11 accredited by a nationally recognized organization;

12 (4) "Episode", a distinct course of chemical dependency treatment separated
13 by at least thirty days without treatment;

14 (5) "Health insurance policy", all group health insurance policies providing
15 coverage on an expense-incurred basis, all group service or indemnity contracts
16 issued by a not for profit health services corporation, all self-insured group health
17 benefit plans of any type or description to the extent that regulation of such plans is
18 not preempted by federal law, and all such health insurance policies or contracts that
19 are individually underwritten or provide such coverage for specific individuals and
20 members of their families as nongroup policies, which provide for hospital treatment.
21 For the purposes of subsection 2 of section 376.811, "health insurance policy" shall
22 also include any group or individual contract issued by a health maintenance
23 organization. The provisions of sections 376.810 to 376.814 shall not apply to
24 policies which provide coverage for a specified disease only, other than for mental
25 illness or chemical dependency;

26 (6) "Licensed professional", a licensed physician specializing in the treatment
27 of mental illness, a licensed psychologist, a licensed clinical social worker or a
28 licensed professional counselor. Only prescription rights under this act shall apply
29 to medical physician's and doctors of osteopathy;

30 (7) "Managed care", the determination of availability of coverage under a
31 health insurance policy through the use of clinical standards to determine the medical
32 necessity of an admission or treatment, and the level and type of treatment, and
33 appropriate setting for treatment, with required authorization on a prospective,
34 concurrent or retrospective basis, sometimes involving case management;

35 (8) "Medical detoxification", hospital inpatient or residential medical care
36 to ameliorate acute medical conditions associated with chemical dependency;

37 (9) "Nonresidential treatment program", program certified by the department

- 38 of mental health involving structured, intensive treatment in a nonresidential setting;
- 39 (10) "Recognized mental illness", those conditions classified as "mental
- 40 disorders" in the American Psychiatric Association Diagnostic and Statistical Manual
- 41 of Mental Disorders, but shall not include mental retardation;
- 42 (11) "Residential treatment program", program certified by the department
- 43 of mental health involving residential care and structured, intensive treatment;
- 44 (12) "Social setting detoxification", a program in a supportive nonhospital
- 45 setting designed to achieve detoxification, without the use of drugs or other medical
- 46 intervention, to establish a plan of treatment and provide for medical referral when
- 47 necessary.]

2 [376.811. 1. Every insurance company and health services corporation doing
3 business in this state shall offer in all health insurance policies, benefits or coverage
4 for chemical dependency meeting the following minimum standards:

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

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

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

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

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

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

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

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

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

33 (1) Coverage for outpatient treatment, including treatment through partial-
or full-day program services, for mental health services for a recognized mental

34 illness rendered by a licensed professional to the same extent as any other illness;

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

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

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

45 (5) The coverages set forth in this subsection may be administered pursuant
46 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
13 committee required under 42 U.S.C. Sec. 1396r(b)(1)(B) and 42 CFR Sec. 483.75(r),
14 or as amended, shall be immune from civil liability only for acts done directly as a
15 member of such committee so long as the acts are performed in good faith, without
16 malice and are required by the activities of such committee as defined in 42 CFR Sec.
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".]

3 [376.826. For the purposes of sections 376.825 to 376.840 the following
4 terms shall mean:

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

6 (2) "Health insurance policy" or "policy", all group health insurance policies
7 providing coverage on an expense-incurred basis, all group service or indemnity
8 contracts issued by a not for profit health services corporation, all self-insured group
9 health benefit plans of any type or description to the extent that regulation of such
10 plans is not preempted by federal law, and all such health insurance policies or
11 contracts that are individually underwritten or provide such coverage for specific
12 individuals and members of their families as nongroup policies, which provide for
13 hospital treatments. The term shall also include any group or individual contract
14 issued by a health maintenance organization. The provisions of sections 376.825 to
15 376.840 shall not apply to policies which provide coverage for a specified disease
16 only, other than for mental illness or chemical dependency;

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

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

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

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

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

(d) Early childhood psychoses, and other disorders first diagnosed in
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.]

[376.827. 1. Nothing in this bill
 2 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.]

[376.830. 1. The coverages set forth in sections 376.825 to 376.840 may be
 2 administered pursuant to a managed care program established by the insurance
 3 company, health services corporation or health maintenance organization, and

4 covered services may be delivered through a system of contractual arrangements with
5 one or more licensed providers, community mental health centers, hospitals,
6 nonresidential or residential treatment programs, or other mental health service
7 delivery entities certified by the department of mental health, or accredited by a
8 nationally recognized organization, or licensed by the state of Missouri. Nothing in
9 this section shall authorize any unlicensed provider to provide covered services.

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

13 3. Nothing in sections 376.825 to 376.840 shall be construed to require a
14 managed care plan as defined by section 354.600, RSMo, when providing coverage
15 for benefits governed by sections 376.825 to 376.840, to cover services rendered by
16 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.]

2 [376.833. 1. The provisions of section 376.827 shall not be violated if the
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.]

2 [376.836. 1. The provisions of sections 376.825 to 376.840 apply to
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.]

2 [376.840. Notwithstanding the provision of subsection 1 of section 376.827,
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.]