

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1440

1 AN ACT

2 To repeal sections 376.779, 376.810, 376.811,
3 376.814, 376.825, 376.826, 376.827, 376.830,
4 376.833, 376.836, and 376.840, RSMo, and to
5 enact in lieu thereof four new sections
6 relating to insurance coverage for mental
7 health.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
9 AS FOLLOWS:

10 Section A. Sections 376.779, 376.810, 376.811, 376.814,
11 376.825, 376.826, 376.827, 376.830, 376.833, 376.836, and
12 376.840, RSMo, are repealed and four new sections enacted in lieu
13 thereof, to be known as sections 376.779, 376.810, 376.811 and
14 376.1550, to read as follows:

15 376.779. [1. All group health insurance policies providing
16 coverage on an expense-incurred basis, all group service or
17 indemnity contracts issued by a not-for-profit health service
18 corporation, all self-insured group health benefit plans, of any
19 type or description, and all such health plans or policies that
20 are individually underwritten or provide for such coverage for
21 specific individuals and the members of their families as

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

15 2. Insurers, corporations or groups providing coverage may
16 approve for payment or reimbursement vendors and programs
17 providing services or treatment required by this section. Any
18 vendor or person offering services or treatment subject to the
19 provisions of this section and seeking approval for payment or
20 reimbursement shall submit to the department of mental health a
21 detailed description of the services or treatment program to be
22 offered. The department of mental health shall make copies of
23 such descriptions available to insurers, corporations or groups
24 providing coverage under the provisions of this section. Each

1 insurer, corporation or group providing coverage shall notify the
2 vendor or person offering service or treatment as to its
3 acceptance or rejection for payment or reimbursement; provided,
4 however, payment or reimbursement shall be made for any service
5 or treatment program certified by the department of mental
6 health. Any notice of rejection shall contain a detailed
7 statement of the reasons for rejection and the steps and
8 procedures necessary for acceptance. Amended descriptions of
9 services or treatment programs to be offered may be filed with
10 the department of mental health. Any vendor or person rejected
11 for approval of payment or reimbursement may modify their
12 description and treatment program and submit copies of the
13 amended description to the department of mental health and to the
14 insurer, corporation or group which rejected the original
15 description.

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

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

24 376.810. As used in sections 376.810 [to 376.814] and

1 376.811, the following terms mean:

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

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

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

14 [(4)] (3) "Episode", a distinct course of chemical
15 dependency treatment separated by at least thirty days without
16 treatment;

17 [(5)] (4) "Health insurance policy", all group health
18 insurance policies providing coverage on an expense-incurred
19 basis, all group service or indemnity contracts issued by a not
20 for profit health services corporation, all self-insured group
21 health benefit plans of any type or description to the extent
22 that regulation of such plans is not preempted by federal law,
23 and all such health insurance policies or contracts that are
24 individually underwritten or provide such coverage for specific

1 individuals and members of their families as nongroup policies,
2 which provide for hospital treatment. For the purposes of
3 subsection 2 of section 376.811, "health insurance policy" shall
4 also include any group or individual contract issued by a health
5 maintenance organization. The provisions of sections 376.810 [to
6 376.814] and 376.811 shall not apply to policies which provide
7 coverage for a specified disease only, other than for mental
8 illness or chemical dependency;

9 [(6)] (5) "Licensed professional", a licensed physician
10 specializing in the treatment of mental illness, a licensed
11 psychologist, a licensed clinical social worker or a licensed
12 professional counselor. Only prescription rights under this act
13 shall apply to medical physician's and doctors of osteopathy;

14 [(7)] (6) "Managed care", the determination of availability
15 of coverage under a health insurance policy through the use of
16 clinical standards to determine the medical necessity of an
17 admission or treatment, and the level and type of treatment, and
18 appropriate setting for treatment, with required authorization on
19 a prospective, concurrent or retrospective basis, sometimes
20 involving case management;

21 [(8)] (7) "Medical detoxification", hospital inpatient or
22 residential medical care to ameliorate acute medical conditions
23 associated with chemical dependency;

24 [(9)] (8) "Nonresidential treatment program", program

1 certified by the department of mental health involving
2 structured, intensive treatment in a nonresidential setting;

3 [(10) "Recognized mental illness", those conditions
4 classified as "mental disorders" in the American Psychiatric
5 Association Diagnostic and Statistical Manual of Mental
6 Disorders, but shall not include mental retardation;

7 (11)] (9) "Residential treatment program", program
8 certified by the department of mental health involving
9 residential care and structured, intensive treatment;

10 [(12)] (10) "Social setting detoxification", a program in a
11 supportive nonhospital setting designed to achieve
12 detoxification, without the use of drugs or other medical
13 intervention, to establish a plan of treatment and provide for
14 medical referral when necessary.

15 376.811. 1. Every insurance company and health services
16 corporation doing business in this state shall [offer] provide
17 coverage in all health insurance policies, benefits or coverage
18 for chemical dependency meeting the following minimum standards:

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

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

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

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

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

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

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

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

23 2. [In addition to the coverages set forth in subsection 1
24 of this section, every insurance company, health services

1 corporation and health maintenance organization doing business in
2 this state shall offer in all health insurance policies, benefits
3 or coverages for recognized mental illness, excluding chemical
4 dependency, meeting the following minimum standards:

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

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

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

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

23 (5) The coverages set forth in this subsection may be
24 administered pursuant to a managed care program established by

1 the insurance company, health services corporation or health
2 maintenance organization, and covered services may be delivered
3 through a system of contractual arrangements with one or more
4 providers, community mental health centers, hospitals,
5 nonresidential or residential treatment programs, or other mental
6 health service delivery entities certified by the department of
7 mental health, or accredited by a nationally recognized
8 organization, or licensed by the state of Missouri.

9 3. The offer required by sections 376.810 to 376.814 may be
10 accepted or rejected by the group or individual policyholder or
11 contract holder and, if accepted, shall fully and completely
12 satisfy and substitute for the coverage under section 376.779.
13 Nothing in sections 376.810 to 376.814 shall prohibit an
14 insurance company, health services corporation or health
15 maintenance organization from including all or part of the
16 coverages set forth in sections 376.810 to 376.814 as standard
17 coverage in their policies or contracts issued in this state.

18 4.] Every insurance company, health services corporation
19 and health maintenance organization doing business in this state
20 shall offer in all health insurance policies mental health
21 benefits or coverage as part of the policy or as a supplement to
22 the policy. Such mental health benefits or coverage shall
23 include at least two sessions per year to a licensed
24 psychiatrist, licensed psychologist, licensed professional

1 counselor, or licensed clinical social worker acting within the
2 scope of such license and under the following minimum standards:

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

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

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

14 [5. If the group or individual policyholder or contract
15 holder rejects the offer required by this section, then the
16 coverage shall be governed by the mental health and chemical
17 dependency insurance act as provided in sections 376.825 to
18 376.835.]

19 376.1550. 1. Notwithstanding any other provision of law to
20 the contrary, each health carrier that offers or issues health
21 benefit plans which are delivered, issued for delivery,
22 continued, or renewed in this state on or after January 1, 2003,
23 shall provide coverage for a mental health condition, as defined
24 in this section, and shall comply with the following provisions:

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

9 (2) A health benefit plan that does not otherwise provide
10 for management of care under the plan or that does not provide
11 for the same degree of management of care for all health
12 conditions may provide coverage for treatment of mental health
13 conditions through a managed care organization; provided that the
14 managed care organization is in compliance with rules adopted by
15 the department of insurance that assure that the system for
16 delivery of treatment for mental health conditions does not
17 diminish or negate the purpose of this section. The rules
18 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
21 health care providers is adequate; and

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

24 (3) A health benefit plan shall be construed to be in

1 compliance with this section if at least one choice for treatment
2 of mental health conditions provided to the insured within the
3 plan has rates, terms, and conditions that place no greater
4 financial burden on the insured than for access to treatment of
5 physical conditions.

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

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

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

11 (3) "Mental health condition", any condition or disorder,
12 except chemical dependence, defined by categories listed in the
13 most recent edition of the Diagnostic and Statistical Manual of
14 Mental Disorders;

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

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

24 3. This section shall not apply to a supplemental insurance

1 policy, including a life care contract, accident-only policy,
2 specified disease policy, hospital policy providing a fixed daily
3 benefit only, Medicare supplement policy, long-term care policy,
4 short-term major medical policies of six months or less duration,
5 or any other supplemental policy as determined by the director of
6 the department of insurance.

7 [376.814. 1. The department of
8 insurance shall promulgate rules and
9 regulations, pursuant to section 376.982 and
10 chapter 536, RSMo, and the department of
11 mental health shall advise the department of
12 insurance on the promulgation of said rules
13 and regulations as they pertain to the
14 development and implementation of all
15 standards and guidelines for managed care as
16 set out in sections 376.810 to 376.814, to
17 ensure that all mental health services
18 provided pursuant to sections 376.810 to
19 376.814 are provided in accordance with
20 chapters 197, 334, 337, RSMo, and section
21 630.655, RSMo, provided however, that nothing
22 in this act shall prohibit department of
23 mental health licensed or certified
24 facilities or programs from using qualified
25 mental health professionals or other
26 specialty staff persons.

27 2. Any person who serves or served on a
28 quality assessment and assurance committee
29 required under 42 U.S.C. Sec. 1396r(b)(1)(B)
30 and 42 CFR Sec. 483.75(r), or as amended,
31 shall be immune from civil liability only for
32 acts done directly as a member of such
33 committee so long as the acts are performed
34 in good faith, without malice and are
35 required by the activities of such committee
36 as defined in 42 CFR Sec. 483.75(r).]

37 [376.825. Sections 376.825 to 376.840
38 shall be known and may be cited as the
39 "Mental Health and Chemical Dependency
40 Insurance Act".]

1 [376.826. For the purposes of sections
2 376.825 to 376.840 the following terms shall
3 mean:

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

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

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

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

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

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

38 (c) Obsessive compulsive disorder,
39 post-traumatic stress disorder and other
40 major anxiety disorders (300.0, 300.21,
41 300.22, 300.23, 300.3 and 309.81);

42 (d) Early childhood psychoses, and
43 other disorders first diagnosed in childhood
44 or adolescence (299.8, 312.8, 313.81 and
45 314);

46 (e) Alcohol and drug abuse (291, 292,
47 303, 304, and 305, except 305.1); and

48 (f) Anorexia nervosa, bulimia and other

1 severe eating disorders (307.1, 307.51,
2 307.52 and 307.53);
3 (g) Senile organic psychotic conditions
4 (290);
5 (5) "Rate", "term", or "condition", any
6 lifetime limits, annual payment limits,
7 episodic limits, inpatient or outpatient
8 service limits, and out-of-pocket limits.
9 This definition does not include deductibles,
10 co-payments, or coinsurance prior to reaching
11 any maximum out-of-pocket limit. Any
12 out-of-pocket limit under a policy shall be
13 comprehensive for coverage of mental illness
14 and physical conditions.]

15 [376.827. 1. Nothing in this bill
16 shall be construed as requiring the coverage
17 of mental illness.

18 2. Except for the coverage required
19 pursuant to subsection 1 of section 376.779,
20 and the offer of coverage required pursuant
21 to sections 376.810 through 376.814, if any
22 of the mental illness disorders enumerated in
23 subdivision (4) of section 376.826 are
24 provided by the health insurance policy, the
25 coverage provided shall include all the
26 disorders enumerated in subdivision (4) of
27 section 376.826 and shall not establish any
28 rate, term, or condition that places a
29 greater financial burden on an insured for
30 access to evaluation and treatment for mental
31 illness than for access to evaluation and
32 treatment for physical conditions, generally,
33 except that alcohol and other drug abuse
34 services shall have a minimum of thirty days
35 total inpatient treatment and a minimum of
36 twenty total visits for outpatient treatment
37 for each year of coverage. A lifetime limit
38 equal to four times such annual limits may be
39 imposed. The days allowed for inpatient
40 treatment can be converted for use for
41 outpatient treatment on a two-for-one basis.

42 3. Deductibles, co-payment or
43 coinsurance amounts for access to evaluation
44 and treatment for mental illness shall not be
45 unreasonable in relation to the cost of
46 services provided.

47 4. A health insurance policy that is a

1 federally qualified plan of benefits shall be
2 construed to be in compliance with sections
3 376.825 to 376.836 if the policy is issued by
4 a federally qualified health maintenance
5 organization and the federally qualified
6 health maintenance organization offered
7 mental health coverage as required by
8 sections 376.825 to 376.836. If such coverage
9 is rejected, the federally qualified health
10 maintenance organization shall, at a minimum,
11 provide coverage for mental health services
12 as a basic health service as required by the
13 Federal Public Health Service Act, 42 U.S.C.
14 Section 300e., et seq.

15 5. Health insurance policies that
16 provide mental illness benefits pursuant to
17 sections 376.825 to 376.840 shall be deemed
18 to be in compliance with the requirements of
19 subsection 1 of section 376.779.

20 6. The director may disapprove any
21 policy that the director determines to be
22 inconsistent with the purposes of this
23 section.]

24 [376.830. 1. The coverages set forth
25 in sections 376.825 to 376.840 may be
26 administered pursuant to a managed care
27 program established by the insurance company,
28 health services corporation or health
29 maintenance organization, and covered
30 services may be delivered through a system of
31 contractual arrangements with one or more
32 licensed providers, community mental health
33 centers, hospitals, nonresidential or
34 residential treatment programs, or other
35 mental health service delivery entities
36 certified by the department of mental health,
37 or accredited by a nationally recognized
38 organization, or licensed by the state of
39 Missouri. Nothing in this section shall
40 authorize any unlicensed provider to provide
41 covered services.

42 2. An insurer may use a case management
43 program for mental illness benefits to
44 evaluate and determine medically necessary
45 and clinically appropriate care and treatment
46 for each patient.

47 3. Nothing in sections 376.825 to

1 376.840 shall be construed to require a
2 managed care plan as defined by section
3 354.600, RSMo, when providing coverage for
4 benefits governed by sections 376.825 to
5 376.840, to cover services rendered by a
6 provider other than a participating provider,
7 except for the coverage pursuant to
8 subsection 4 of section 376.811. An insurer
9 may contract for benefits provided in
10 sections 376.825 to 376.840 with a managing
11 entity or group of providers for the
12 management and delivery of services for
13 benefits governed by sections 376.825 to
14 376.840.]

15 [376.833. 1. The provisions of section
16 376.827 shall not be violated if the insurer
17 decides to apply different limits or exclude
18 entirely from coverage the following:

19 (1) Marital, family, educational, or
20 training services unless medically necessary
21 and clinically appropriate;

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

24 (3) Care that is custodial in nature;

25 (4) Services and supplies that are not
26 medically necessary nor clinically
27 appropriate; or

28 (5) Treatments that are considered
29 experimental.

30 2. The director shall grant a
31 policyholder a waiver from the provisions of
32 section 376.827 if the policyholder
33 demonstrates to the director by actual
34 experience over any consecutive
35 twenty-four-month period that compliance with
36 sections 376.825 to 376.840 has increased the
37 cost of the health insurance policy by an
38 amount that results in a two percent increase
39 in premium costs to the policyholder.]

40 [376.836. 1. The provisions of
41 sections 376.825 to 376.840 apply to
42 applications for coverage made on or after
43 January 1, 2000, and to health insurance
44 policies issued or renewed on or after such
45 date to residents of this state. Multiyear
46 group policies need not comply until the

1 expiration of their current multiyear term
2 unless the policyholder elects to comply
3 before that time.

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

12 [376.840. Notwithstanding the provision
13 of subsection 1 of section 376.827, all
14 health insurance policies which cover state
15 employees including the Missouri consolidated
16 health care plan shall include coverage for
17 mental illness. Multiyear group policies
18 need not comply until the expiration of their
19 current multiyear term unless the
20 policyholder elects to comply before that
21 time.]

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