

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 973
Committee Substitute Favorable 5/8/07
Committee Substitute #2 Favorable 5/22/07
Fourth Edition Engrossed 5/23/07

Short Title: Mental Health Equitable Coverage.

(Public)

Sponsors:

Referred to:

March 22, 2007

A BILL TO BE ENTITLED

AN ACT TO REQUIRE EQUITY IN HEALTH INSURANCE COVERAGE FOR
MENTAL ILLNESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-51-55 reads as rewritten:

"§ 58-51-55. No discrimination against ~~the~~ mentally ill and chemically
~~dependent.~~ dependent individuals.

(a) Definitions. – As used in this section, the term:

(1) 'Mental illness' has the same meaning as defined in ~~G.S. 122C-3(21);~~
~~and~~ G.S. 122C-3(21), with a mental disorder defined in the Diagnostic
and Statistical Manual of Mental Disorders, DSM-IV, or a subsequent
edition published by the American Psychiatric Association, except
those mental disorders coded in the DSM-IV or subsequent editions as
substance-related disorders (291.0 through 292.9 and 303.0 through
305.9) and those coded as 'V' codes.

(2) 'Chemical dependency' has the same meaning as defined in
G.S. 58-51-50

with a diagnosis found in the Diagnostic and Statistical Manual of Mental Disorders
DSM-3-R or the International Classification of Diseases ICD/9/CM, or a later edition of
those manuals.

(b) Coverage of Physical Illness. – No insurance company licensed in this State
under this Chapter shall, solely because an individual to be insured has or had a mental
illness or chemical dependency:

(1) Refuse to issue or deliver to that individual any policy that affords
benefits or coverages for any medical treatment or service for physical
illness or injury;

- 1 (2) Have a higher premium rate or charge for physical illness or injury
2 coverages or benefits for that individual; or
3 (3) Reduce physical illness or injury coverages or benefits for that
4 individual.

5 ~~(b1) Coverage of Mental Illness. — A policy that covers both physical illness or~~
6 ~~injury and mental illness may not impose a lesser lifetime or annual dollar limitation on~~
7 ~~the mental health benefits than on the physical illness or injury benefits, subject to the~~
8 ~~following:~~

- 9 (1) ~~A lifetime limit or annual limit may be made applicable to all benefits~~
10 ~~under the policy, without distinguishing the mental health benefits.~~
11 (2) ~~If the policy contains lifetime limits only on selected physical illness~~
12 ~~and injury benefits, and these benefits do not represent substantially all~~
13 ~~of the physical illness and injury benefits under the policy, the insurer~~
14 ~~may impose a lifetime limit on the mental health benefits that is based~~
15 ~~on a weighted average of the respective lifetime limits on the selected~~
16 ~~physical illness and injury benefits. The weighted average shall be~~
17 ~~calculated in accordance with rules adopted by the Commissioner.~~
18 (3) ~~If the policy contains annual limits only on selected physical illness~~
19 ~~and injury benefits, and these benefits do not represent substantially all~~
20 ~~of the physical illness and injury benefits under the policy, the insurer~~
21 ~~may impose an annual limit on the mental health benefits that is based~~
22 ~~on a weighted average of the respective annual limits on the selected~~
23 ~~physical illness and injury benefits. The weighted average shall be~~
24 ~~calculated in accordance with rules adopted by the Commissioner.~~
25 (4) ~~Except as otherwise provided in this section, the policy may~~
26 ~~distinguish between mental illness benefits and physical injury or~~
27 ~~illness benefits with respect to other terms of the policy, including~~
28 ~~coinsurance, limits on provider visits or days of coverage, and~~
29 ~~requirements relating to medical necessity.~~
30 (5) ~~If the insurer offers two or more benefit package options under a~~
31 ~~policy, each package must comply with this subsection.~~
32 (6) ~~This subsection does not apply to a policy if the insurer can~~
33 ~~demonstrate to the Commissioner that compliance will increase the~~
34 ~~cost of the policy by one percent (1%) or more.~~
35 (7) ~~This subsection expires October 1, 2001, but the expiration does not~~
36 ~~affect services rendered before that date.~~

37 (c) ~~Mental Illness or Chemical Dependency Coverage Not Required. — Nothing~~
38 ~~in this section requires an insurer to offer coverage for mental illness or chemical~~
39 ~~dependency, except as provided in G.S. 58-51-50.~~

40 (d) ~~Applicability. — Subsection (b1) of this~~ This section applies only to group
41 health insurance contracts, other than excepted benefits as defined in G.S. 58-68-25,
42 covering more than ~~50~~25 employees. ~~The remainder of this section applies only to~~
43 ~~group health insurance contracts covering 20 or more employees. For purposes of this~~

1 section, "group health insurance contracts" include MEWAs, as defined in
2 G.S. 58-49-30(a)."

3 **SECTION 2.** Article 3 of Chapter 58 of the General Statutes is amended by
4 adding the following new section to read:

5 **"§ 58-3-220. Mental illness benefits coverage.**

6 (a) Mental Health Equity Requirement. – An insurer shall provide in each group
7 health benefit plan benefits for the necessary care and treatment of mental illness that
8 are no less favorable than benefits for physical illness generally. Benefits for treatment
9 of mental illness shall be subject to the same limits as benefits for physical illness
10 generally. For purposes of this subsection, 'limits' includes durational limits,
11 deductibles, coinsurance factors, co-payments, maximum out-of-pocket limits, annual
12 and lifetime dollar limits, and any other dollar limits or fees for covered services.

13 (b) Weighted Average. – If a health benefit plan contains annual limits, lifetime
14 limits, co-payments, deductibles, or coinsurance only on selected physical illness and
15 injury benefits, and these benefits do not represent substantially all of the physical
16 illness and injury benefits under the health benefit plan, then the insurer may impose
17 limits on the mental health benefits based on a weighted average of the respective
18 annual, lifetime, co-payment, deductible, or coinsurance limits on the selected physical
19 illness and injury benefits. The weighted average shall be calculated in accordance with
20 rules adopted by the Commissioner.

21 (c) Nothing in this section prevents an insurer from applying utilization review
22 criteria to determine medical necessity as defined in G.S. 58-50-61 as long as it does so
23 in accordance with all requirements for utilization review programs and medical
24 necessity determinations specified in that section, including the offering of an insurer
25 appeal process and, where applicable, health benefit plan external review as provided
26 for in Part 4 of Article 50 of Chapter 58 of the General Statutes.

27 (d) Definitions. – As used in this section:

28 (1) 'Health benefit plan' has the same meaning as in G.S. 58-3-167 and
29 includes the Teachers' and State Employees' Comprehensive Major
30 Medical Plan (Plan) and the Plan's optional PPO program.

31 (2) 'Insurer' has the same meaning as in G.S. 58-3-167.

32 (3) 'Mental illness' has the same meaning as in G.S. 122C-3(21), with a
33 mental disorder defined in the Diagnostic and Statistical Manual of
34 Mental Disorders, DSM-IV, or subsequent editions published by the
35 American Psychiatric Association, except those mental disorders
36 coded in the DSM-IV or subsequent editions as substance-related
37 disorders (291.0 through 292.9 and 303.0 through 305.9) and those
38 coded as 'V' codes.

39 (e) Applicability. – This section applies only to group health benefit plans
40 covering more than 25 employees."

41 **SECTION 3.** G.S. 58-65-90 reads as rewritten:

42 **"§ 58-65-90. No discrimination against ~~the~~ mentally ill and chemically**
43 **dependent-dependent individuals.**

44 (a) Definitions. – As used in this section, the term:

1 (1) 'Mental illness' has the same meaning as defined in G.S. 122C-3(21);
2 and G.S. 122C-3(21), with a mental disorder defined in the Diagnostic
3 and Statistical Manual of Mental Disorders, DSM-IV, or subsequent
4 editions published by the American Psychiatric Association, except
5 those mental disorders coded in the DSM-IV or subsequent editions as
6 substance-related disorders (291.0 through 292.9 and 303.0 through
7 305.9) and those coded as 'V' codes.

8 (2) 'Chemical dependency' has the same meaning as defined in
9 G.S. 58-65-75

10 with a diagnosis found in the Diagnostic and Statistical Manual of Mental Disorders
11 DSM-3-R or the International Classification of Diseases ICD/9/CM, or a later edition of
12 those manuals.

13 (b) Coverage of Physical Illness. – No service corporation governed by this
14 Chapter shall, solely because an individual to be insured has or had a mental illness or
15 chemical dependency:

16 (1) Refuse to issue or deliver to that individual any individual or group
17 subscriber contract in this State that affords benefits or coverage for
18 medical treatment or service for physical illness or injury;

19 (2) Have a higher premium rate or charge for physical illness or injury
20 coverages or benefits for that individual; or

21 (3) Reduce physical illness or injury coverages or benefits for that
22 individual.

23 ~~(b1) Coverage of Mental Illness.—A subscriber contract that covers both physical~~
24 ~~illness or injury and mental illness may not impose a lesser lifetime or annual dollar~~
25 ~~limitation on the mental health benefits than on the physical illness or injury benefits,~~
26 ~~subject to the following:~~

27 ~~(1) A lifetime limit or annual limit may be made applicable to all benefits~~
28 ~~under the subscriber contract, without distinguishing the mental health~~
29 ~~benefits.~~

30 ~~(2) If the subscriber contract contains lifetime limits only on selected~~
31 ~~physical illness or injury benefits, and these benefits do not represent~~
32 ~~substantially all of the physical illness and injury benefits under the~~
33 ~~subscriber contract, the service corporation may impose a lifetime~~
34 ~~limit on the mental health benefits that is based on a weighted average~~
35 ~~of the respective lifetime limits on the selected physical illness and~~
36 ~~injury benefits. The weighted average shall be calculated in~~
37 ~~accordance with rules adopted by the Commissioner.~~

38 ~~(3) If the subscriber contract contains annual limits only on selected~~
39 ~~physical illness and injury benefits, and these benefits do not represent~~
40 ~~substantially all of the physical illness and injury benefits under the~~
41 ~~subscriber contract, the service corporation may impose an annual~~
42 ~~limit on the mental health benefits that is based on a weighted average~~
43 ~~of the respective annual limits on the selected physical illness and~~

1 injury benefits. The weighted average shall be calculated in
2 accordance with rules adopted by the Commissioner.

3 (4) Except as otherwise provided in this section, the subscriber contract
4 may distinguish between mental illness benefits and physical injury or
5 illness benefits with respect to other terms of the subscriber contract,
6 including coinsurance, limits on provider visits or days of coverage,
7 and requirements relating to medical necessity.

8 (5) If the service corporation offers two or more benefit package options
9 under a subscriber contract, each package must comply with this
10 subsection.

11 (6) This subsection does not apply to a subscriber contract if the service
12 corporation can demonstrate to the Commissioner that compliance will
13 increase the cost of the subscriber contract by one percent (1%) or
14 more.

15 (7) This subsection expires October 1, 2001, but the expiration does not
16 affect services rendered before that date.

17 (c) ~~Mental Illness or Chemical Dependency Coverage Not Required.~~ – Nothing
18 in this section requires a service corporation to offer coverage for ~~mental illness or~~
19 ~~chemical dependency~~, except as provided in G.S. 58-65-75.

20 (d) Applicability. — ~~Subsection (b1) of this~~ This section applies only to subscriber
21 contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than
22 ~~50~~ 25 employees. ~~The remainder of this section applies only to group contracts covering~~
23 ~~20 or more employees."~~

24 SECTION 4. G.S. 58-67-75 reads as rewritten:

25 "§ 58-67-75. No discrimination against ~~the mentally ill and chemically~~
26 ~~dependent.~~ dependent individuals.

27 (a) Definitions. – As used in this section, the term:

28 (1) 'Mental illness' has the same meaning as defined in ~~G.S. 122C-3(21);~~
29 ~~and~~ G.S. 122C-3(21), with a mental disorder defined in the Diagnostic
30 and Statistical Manual of Mental Disorders, DSM-IV, or subsequent
31 editions published by the American Psychiatric Association, except
32 those mental disorders coded in the DSM-IV or subsequent editions as
33 substance-related disorders (291.0 through 292.9 and 303.0 through
34 305.9) and those coded as 'V' codes.

35 (2) 'Chemical dependency' has the same meaning as defined in
36 G.S. 58-67-70

37 with a diagnosis found in the Diagnostic and Statistical Manual of Mental Disorders
38 DSM-3-R or the International Classification of Diseases ICD/9/CM, or a later edition of
39 those manuals.

40 (b) Coverage of Physical Illness. – No health maintenance organization governed
41 by this Chapter shall, solely because an individual has or had a mental illness or
42 chemical dependency:

43 (1) Refuse to enroll that individual in any health care plan covering
44 physical illness or injury;

- 1 (2) Have a higher premium rate or charge for physical illness or injury
2 coverages or benefits for that individual; or
3 (3) Reduce physical illness or injury coverages or benefits for that
4 individual.

5 ~~(b1) Coverage of Mental Illness. — A health care plan that covers both physical~~
6 ~~illness or injury and mental illness may not impose a lesser lifetime or annual dollar~~
7 ~~limitation on the mental health benefits than on the physical illness or injury benefits,~~
8 ~~subject to the following:~~

- 9 (1) ~~A lifetime limit or annual limit may be made applicable to all benefits~~
10 ~~under the plan, without distinguishing the mental health benefits.~~
11 (2) ~~If the plan contains lifetime limits only on selected physical illness and~~
12 ~~injury benefits, and these benefits do not represent substantially all of~~
13 ~~the physical illness and injury benefits under the plan, the HMO may~~
14 ~~impose a lifetime limit on the mental health benefits that is based on a~~
15 ~~weighted average of the respective lifetime limits on the selected~~
16 ~~physical illness and injury benefits. The weighted average shall be~~
17 ~~calculated in accordance with rules adopted by the Commissioner.~~
18 (3) ~~If the plan contains annual limits only on selected physical illness and~~
19 ~~injury benefits, and these benefits do not represent substantially all of~~
20 ~~the physical illness and injury benefits under the plan, the HMO may~~
21 ~~impose an annual limit on the mental health benefits that is based on a~~
22 ~~weighted average of the respective annual limits on the selected~~
23 ~~physical illness and injury benefits. The weighted average shall be~~
24 ~~calculated in accordance with rules adopted by the Commissioner.~~
25 (4) ~~Except as otherwise provided in this section, the plan may distinguish~~
26 ~~between mental illness benefits and physical injury or illness benefits~~
27 ~~with respect to other terms of the plan, including coinsurance, limits on~~
28 ~~provider visits or days of coverage, and requirements relating to~~
29 ~~medical necessity.~~
30 (5) ~~If the HMO offers two or more benefit package options under a plan,~~
31 ~~each package must comply with this subsection.~~
32 (6) ~~This subsection does not apply to a health benefit plan if the HMO can~~
33 ~~demonstrate to the Commissioner that compliance will increase the~~
34 ~~cost of the plan by one percent (1%) or more.~~
35 (7) ~~This subsection expires October 1, 2001, but the expiration does not~~
36 ~~affect services rendered before that date.~~

37 ~~(c) Mental Illness or Chemical Dependency Coverage Not Required. — Nothing~~
38 ~~in this section requires an HMO to offer coverage for mental illness or chemical~~
39 ~~dependency, except as provided in G.S. 58-67-70.~~

40 ~~(d) Applicability. — Subsection (b1) of this~~ This section applies only to group
41 ~~contracts, other than excepted benefits as defined in G.S. 58-68-25, covering more than~~
42 ~~50 25 employees. The remainder of this section applies only to group contracts covering~~
43 ~~20 or more employees."~~

44 **SECTION 5.** G.S. 58-50-155 reads as rewritten:

1 **"§ 58-50-155. Standard and basic health care plan coverages.**

2 (a) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and
3 approved under G.S. 58-50-125 shall provide coverage for all of the following:

- 4 (1) Mammograms and pap smears at least equal to the coverage required
5 by G.S. 58-51-57.
- 6 (2) Prostate-specific antigen (PSA) tests or equivalent tests for the
7 presence of prostate cancer at least equal to the coverage required by
8 G.S. 58-51-58.
- 9 (3) Reconstructive breast surgery resulting from a mastectomy at least
10 equal to the coverage required by G.S. 58-51-62.
- 11 (4) For a qualified individual, scientifically proven bone mass
12 measurement for the diagnosis and evaluation of osteoporosis or low
13 bone mass at least equal to the coverage required by G.S. 58-3-174.
- 14 (5) Prescribed contraceptive drugs or devices that prevent pregnancy and
15 that are approved by the United States Food and Drug Administration
16 for use as contraceptives, or outpatient contraceptive services at least
17 equal to the coverage required by G.S. 58-3-178, if the plan covers
18 prescription drugs or devices, or outpatient services, as applicable. The
19 same exceptions and exclusions as are provided under G.S. 58-3-178
20 apply to standard plans developed and approved under G.S. 58-50-125.
- 21 (6) Colorectal cancer examinations and laboratory tests at least equal to
22 the coverage required by G.S. 58-3-179.
- 23 (7) Treatment of mental illness that is at least equal to the coverage
24 required by G.S. 58-3-220. Nothing in this subdivision prevents an
25 insurer from applying utilization review criteria to determine medical
26 necessity as defined in G.S. 58-50-61 as long as it does so in
27 accordance with all requirements for utilization review programs and
28 medical necessity determinations specified in that section, including
29 the offering of an insurer appeal process and, where applicable, health
30 benefit plan external review as provided for in Part 4 of Article 50 of
31 Chapter 58 of the General Statutes.

32 (a1), (a2) Repealed by Session Laws 1999-197, s. 2.

33 (b) Notwithstanding G.S. 58-50-125(c), in developing and approving the plans
34 under G.S. 58-50-125, the Committee and Commissioner shall give due consideration to
35 cost-effective and life-saving health care services and to cost-effective health care
36 providers."

37 **SECTION 6.** This act becomes effective January 1, 2008, and applies to
38 health benefit plans that are delivered, issued for delivery, or renewed on and after that
39 date. For purposes of this act, renewal of a health benefit policy, contract, or plan is
40 presumed to occur on each anniversary of the date on which coverage was first effective
41 on the person or persons covered by the health benefit plan.