

SENATE BILL No. 249

By Senators Holland, Baumgardner, Bollier, Hensley, Sykes and Ware

12-18

1 AN ACT concerning insurance; relating to coverage of mental illness and
2 substance use disorders; limiting utilization review under certain
3 circumstances; enacting the Kristi L. Bennett mental health parity act;
4 amending K.S.A. 2019 Supp. 40-2,105 and 40-2,105a and repealing the
5 existing sections.

6
7 WHEREAS, The provisions of the amendments to the sections in this
8 act shall be named the Kristi L. Bennett mental health parity act.

9 Now, therefore:

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2019 Supp. 40-2,105a is hereby amended to read as
12 follows: 40-2,105a. (a) (1) ~~Any group health insurance policy, medical~~
13 ~~service plan, contract, hospital service corporation contract, hospital and~~
14 ~~medical service corporation contract, fraternal benefit society or health~~
15 ~~maintenance organization health insurer that offers a health benefit plan~~
16 that provides medical, surgical or hospital expense coverage shall include
17 coverage for diagnosis and treatment of mental ~~illnesses and alcoholism,~~
18 ~~drug abuse or other substance use disorders~~ *illness or substance use*
19 *disorder as required by this section. Such coverage shall include treatment*
20 *and services for inpatient or outpatient care. Reimbursement or indemnity*
21 *shall be provided for treatment in a medical care facility licensed under the*
22 *provisions of K.S.A. 65-429, and amendments thereto, treatment facilities*
23 *licensed under K.S.A. 65-4605, and amendments thereto, a community*
24 *mental health center or clinic licensed under the provisions of K.S.A. 2019*
25 *Supp. 39-2001 et seq., and amendments thereto, a psychiatric hospital*
26 *licensed under the provisions of K.S.A. 2019 Supp. 39-2001 et seq., and*
27 *amendments thereto, or by a physician or psychologist licensed to practice*
28 *under the laws of the state of Kansas. Such coverage shall not be subject to*
29 ~~the same~~ *deductibles, copayments, coinsurance, out-of-pocket expenses,*
30 *treatment limitations and other limitations as that are more strict or*
31 *limiting than those that apply to other covered services.*

32 (2) (A) ~~The coverage shall include treatment for in-patient care and~~
33 ~~out-patient care for mental illness, alcoholism, drug abuse or substance use~~
34 ~~disorders~~ *For patients who have substance use disorder, are afflicted with*
35 *suicidal ideation or are actively suicidal, health insurers shall provide*
36 *coverage without the imposition of prior authorization, concurrent review,*

1 *retrospective review or other form of utilization review for the first:*

2 *(i) Fourteen days of medically necessary inpatient treatment and*
3 *services provided in-network; and*

4 *(ii) 180 days days of medically necessary outpatient treatment and*
5 *services provided in-network.*

6 *(B) The medical necessity of any treatment shall be determined by the*
7 *treating provider in consultation with the patient and shall be noted in the*
8 *patient's medical record.*

9 *(C) For any inpatient treatment, if there is no in-network facility*
10 *immediately available for a covered person, a health insurer shall provide*
11 *all necessary network exceptions to ensure that the patient is admitted to a*
12 *treatment facility within 24 hours.*

13 *(D) Treating providers of patients who have substance use disorder,*
14 *are afflicted with suicidal ideation or are actively suicidal shall not*
15 *require prepayment of medical expenses during the first 14 days of*
16 *medically necessary inpatient treatment and services provided in-network*
17 *or the first 180 days of medically necessary outpatient treatment and*
18 *services provided in-network in excess of any applicable co-payment,*
19 *deductible or co-insurance under the health benefit plan.*

20 *(b) For the purposes of this section, "mental illness, alcoholism, drug*
21 *abuse or substance use" means any disorder as such terms are defined in*
22 *the diagnostic and statistical manual of mental disorders, fourth edition,*
23 *(DSM-IV, 1994) of the American psychiatric association As used in this*
24 *section:*

25 *(1) "Health benefit plan" means the same as that term is defined in*
26 *K.S.A. 40-4602, and amendments thereto. Health benefit plan includes any*
27 *policy of health insurance purchased by an individual and the state*
28 *employee healthcare benefits plan.*

29 *(2) "Health insurer" means the same as that term is defined in K.S.A.*
30 *40-4602, and amendments thereto.*

31 *(3) "Mental illness or substance use disorder" means any condition*
32 *or disorder that involves a mental health condition or substance use*
33 *disorder that falls under any of the diagnostic categories listed in the*
34 *mental disorders section of the diagnostic and statistical manual of mental*
35 *disorders, fifth edition, of the American psychiatric association.*

36 *(c) The provisions of this section shall be applicable to health*
37 *maintenance organizations organized under article 32 of chapter 40 of the*
38 *Kansas Statutes Annotated, and amendments thereto.*

39 *(d) The provisions of this section shall not apply to any small*
40 *employer group policy, as defined under K.S.A. 40-2209, and amendments*
41 *thereto, providing medical, surgical or hospital expense coverage or to any*
42 *medicare supplement policy of insurance, as defined by the commissioner*
43 *of insurance by rule and regulation.*

1 ~~(e)~~ The provisions of this section shall be applicable to the Kansas-
 2 state employees health care benefits program and municipal funded pools.

3 ~~(f)~~ The provisions of this section shall not apply to any policy or
 4 certificate that provides coverage for any specified disease, specified
 5 accident or accident only coverage, credit, dental, disability income,
 6 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
 7 2227, and amendments thereto, vision care or any other limited
 8 supplemental benefit nor to any medicare supplement policy of insurance
 9 as defined by the commissioner of insurance by rule and regulation, any
 10 coverage issued as a supplement to liability insurance, workers-
 11 compensation or similar insurance, automobile medical-payment insurance
 12 or any insurance under which benefits are payable with or without regard
 13 to fault, whether written on a group, blanket or individual basis.

14 ~~(g)~~ *(d)* Treatment limitations include limits on the frequency of
 15 treatment, number of visits, days of coverage or other similar limits on the
 16 scope or duration of treatment.

17 ~~(h)~~ *(e)* There shall be no coverage under the provisions of this section
 18 for any assessment against any person required by a diversion agreement
 19 or by order of a court to attend an alcohol and drug safety action program
 20 certified pursuant to K.S.A. 8-1008, and amendments thereto, or for
 21 evaluations and diagnostic tests ordered or requested in connection with
 22 criminal actions, divorce, child custody or child visitation proceedings.

23 ~~(i)~~ *(f)* Utilization review for mental illness shall be consistent with
 24 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments
 25 thereto.

26 Sec. 2. K.S.A. 2019 Supp. 40-2,105 is hereby amended to read as
 27 follows: 40-2,105. ~~(a) On or after the effective date of this act,~~ Every
 28 insurer that issues any individual policy of accident and sickness insurance
 29 or group policy of accident and sickness insurance to a small employer as
 30 defined in K.S.A. 40-2209d, and amendments thereto, that provides
 31 medical, surgical or hospital expense coverage for other than specific
 32 diseases or accidents only and that provides for reimbursement or
 33 indemnity for services rendered to a person covered by such policy in a
 34 medical care facility, ~~must~~ shall provide for reimbursement or indemnity
 35 under such individual policy or under such small employer group policy,
 36 except as provided in subsection (d), that shall be limited to not less than
 37 45 days per year for in-patient treatment of mental illness in a medical care
 38 facility licensed under the provisions of K.S.A. 65-429, and amendments
 39 thereto, and not less than 30 days per year when such person is confined
 40 for treatment of ~~alcoholism, drug abuse or substance use disorders-~~
 41 *disorder* in a treatment facility for alcoholics licensed under the provisions
 42 of K.S.A. 65-4014, and amendments thereto, a treatment facility for drug
 43 abusers licensed under the provisions of K.S.A. 65-4605, and amendments

1 thereto, a community mental health center or clinic licensed under the
2 provisions of K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto,
3 or a psychiatric hospital licensed under the provisions of K.S.A. 2019
4 Supp. 39-2001 et seq., and amendments thereto. ~~Such individual policy or~~
5 Such small employer group policy shall also provide for reimbursement or
6 indemnity, except as provided in subsection (d), of the costs of treatment
7 of such person for mental illness, ~~alcoholism, drug abuse and~~ or substance
8 use ~~disorders~~ disorder subject to the same deductibles, copayments,
9 coinsurance, out-of-pocket expenses and treatment limitations as apply to
10 other covered services, limited to not less than \$15,000 in such person's
11 lifetime, with no annual limits, in the facilities enumerated when in-patient
12 treatment is not necessary for the treatment or by a physician licensed or
13 psychologist licensed to practice under the laws of the state of Kansas.

14 (b) *For patients who have substance use disorder, are afflicted with*
15 *suicidal ideation or are actively suicidal, health insurers shall provide*
16 *coverage without the imposition of prior authorization, concurrent review,*
17 *retrospective review or other form of utilization review for the first:*

18 (1) *Fourteen days of medically necessary inpatient treatment and*
19 *services provided in-network; and*

20 (2) *180 days days of medically necessary outpatient treatment and*
21 *services provided in-network.*

22 (c) *The medical necessity of any treatment shall be determined by the*
23 *treating provider in consultation with the patient and shall be noted in the*
24 *patient's medical record.*

25 (d) *For any inpatient treatment, if there is no in-network facility*
26 *immediately available for a covered person, a health insurer shall provide*
27 *all necessary network exceptions to ensure that the patient is admitted to a*
28 *treatment facility within 24 hours.*

29 (e) *Treating providers of patients who have substance use disorder,*
30 *are afflicted with suicidal ideation or are actively suicidal shall not*
31 *require prepayment of medical expenses during the first 14 days of*
32 *medically necessary inpatient treatment and services provided in-network*
33 *or the first 180 days of medically necessary outpatient treatment and*
34 *services provided in-network in excess of any applicable co-payment,*
35 *deductible or co-insurance under the health benefit plan.*

36 (f) ~~For the purposes of~~ *As used in this section "mental illness,*
37 ~~alcoholism, drug abuse or substance use disorder" means disorders~~
38 ~~specified in any condition or disorder that involves a mental health~~
39 ~~condition or substance use disorder that falls under any of the diagnostic~~
40 ~~categories listed in the mental disorders section of the diagnostic and~~
41 ~~statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) fifth~~
42 ~~edition,~~ *of the American psychiatric association.*

43 (e)(g) The provisions of this section shall be applicable to health

1 maintenance organizations organized under article 32 of chapter 40 of the
2 Kansas Statutes Annotated, and amendments thereto.

3 ~~(d)(h)~~ There shall be no coverage under the provisions of this section
4 for any assessment against any person required by a diversion agreement
5 or ~~by order of a court to attend an alcohol and drug safety action program~~
6 ~~certified~~ pursuant to K.S.A. 8-1008, and amendments thereto, or for
7 evaluations and diagnostic tests ordered or requested in connection with
8 criminal actions, divorce, child custody or child visitation proceedings.

9 ~~(e)(i)~~ The provisions of this section shall not apply to any medicare
10 supplement policy of insurance, as defined by the commissioner of
11 insurance by rule and regulation.

12 ~~(f)(j)~~ Treatment limitations include limits on the frequency of
13 treatment, number of visits, days of coverage or other similar limits on the
14 scope or duration of treatment.

15 ~~(g)(k)~~ Utilization review for mental illness shall be consistent with
16 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments
17 thereto.

18 Sec. 3. K.S.A. 2019 Supp. 40-2,105 and 40-2,105a are hereby
19 repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the Kansas register.