REFERENCE TITLE: insurance; mental health coverage; parity

State of Arizona

House of Representatives

Fifty-fourth Legislature

First Regular Session

2019

**SB XXXX**

Introduced by

Senator \_\_\_\_\_\_\_\_\_\_

AN ACT

AMENDING SECTION 20-2322, ARIZONA REVISED STATUTES; RELATING TO MENTAL HEALTH INSURANCE COVERAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-2322, Arizona Revised Statutes, is amended to read:

20-2322. Mental health services and benefits: definitions

A. Beginning on January 1, 1998, any health benefits plan that is offered by an accountable health plan and that provides services or health benefits that include mental health services or mental health benefits shall comply with this section.

B. If the health benefits plan does not include an aggregate lifetime limit on substantially all health services or health benefits that are not related to mental health services or mental health benefits, the health benefits plan shall not impose any aggregate lifetime limit on mental health services or mental health benefits. If the health benefits plan includes an aggregate lifetime limit on substantially all health services or health benefits that are not related to mental health services or mental health benefits, the health benefits plan shall either:

1. Apply the applicable lifetime limit to both the health services or health benefits that are not related to mental health services or mental health benefits and to the mental health services or mental health benefits.

2. Not include an aggregate lifetime limit on mental health services or mental health benefits that is less than the applicable lifetime limit for health services or health benefits that are not related to mental health services or mental health benefits.

C. If the health benefits plan does not include an aggregate annual limit on substantially all health services or health benefits that are not related to mental health services or mental health benefits, the health benefits plan shall not impose any aggregate annual limit on mental health services or mental health benefits. If the health benefits plan includes an aggregate annual limit on substantially all health services or health benefits that are not related to mental health services or mental health benefits, the health benefits plan shall either:

1. Apply the applicable annual limit to both the health services or health benefits that are not related to mental health services or mental health benefits and to the mental health services or mental health benefits.

2. Not include any aggregate annual limit on mental health services or mental health benefits that is less than the applicable annual limit for health services or health benefits that are not related to mental health services or mental health benefits.

D. ~~Except as provided in subsections A, B and C, this section does not prevent an accountable health plan that offers a health benefits plan that provides mental health services or mental health benefits from imposing terms and conditions, including cost sharing, limits on the number of visits or days of coverage or requirements relating to medical necessity in relation to the amount, duration or scope of coverage for mental health services or mental health benefits under the health benefits plan.~~ AN ACCOUNTABLE HEALTH PLAN THAT OFFERS A HEALTH BENEFITS PLAN THAT PROVIDES MENTAL HEALTH SERVICES OR MENTAL HEALTH BENEFITS SHALL COMPLY WITH THE MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT OF 2008 FOUND AT 42 U.S.C. 300GG-26 AND ITS IMPLEMENTING AND RELATED REGULATIONS FOUND AT 45 CFR 146.136, 45 CFR 147.160, AND 45 CFR 156.115(A)(3). Nothing in this section requires an accountable health plan to:

1. Offer a health benefits plan that provides mental health services or mental health benefits.

~~2. Comply with this section in connection with any health benefits plan offered to a small employer.~~

~~3.~~ 2. Comply with this section if that compliance under the health benefits plan offered by the accountable health plan would result in an increase in the cost to the health benefits plan of at least one per cent.

E. The requirements of this section apply separately to each health benefits plan offered by an accountable health plan and shall be consistent with title VII of the health insurance portability and accountability act of 1996 (P.L. 104-204; 110 Stat. 2944) and 45 Code of Federal Regulations part 146.

F. Mental health services or mental health benefits ~~do not~~ include benefits for the treatment of substance abuse or chemical dependency.

G. For the purposes of this section:

1. "Aggregate annual limit" means a dollar limitation on the total amount that may be paid in a twelve month period for benefits or services under a health benefits plan for an individual who is covered under a health benefits plan.

2. "Aggregate lifetime limit" means a dollar limitation on the total amount that may be paid for benefits or services under a health benefits plan for an individual who is covered under a health benefits plan.

H. The director shall implement and enforce applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, and any amendments to, and any federal guidance or regulations relevant to, that act, including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3), which includes:

1. Proactively ensuring compliance by any entity that offers, issues, or otherwise provides an individual or group health benefits plan.

2. Evaluating all consumer or provider complaints regarding mental health and substance abuse coverage for possible parity violations.

3. Performing parity compliance market conduct examinations of entities that offer, issue, or otherwise provide individual or group health benefits plans, particularly market conduct examinations that focus on nonquantitative treatment limitations such as prior authorization, concurrent review, retrospective review, step-therapy, network admission standards, reimbursement rates, and geographic restrictions, among other nonquantitative treatment limitations.

4. Requesting that entities submit comparative analyses during the form review process demonstrating how they design and apply nonquantitative treatment limitations, both as written and in operation, for mental health and substance abuse benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits.

5. The director may adopt rules, under insert relevant section of state law, as may be necessary to effectuate any provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 that relate to the business of insurance.

I. Not later than January 31st, 2020, the director shall issue a report and educational presentation to the Legislature; such report and presentation shall:

1. Cover the methodology the director is using to check for compliance with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), and any federal regulations or guidance relating to the compliance and oversight of MHPAEA.

2. Identify market conduct examinations conducted or completed during the preceding 12-month period regarding compliance with parity in mental health and substance abuse benefits under state and federal laws and summarize the results of such market conduct examinations.

3. Detail any educational or corrective actions the director has taken to ensure insurer compliance with MHPAEA and this section.

4. The report must be written in non-technical, readily understandable language and shall be made available to the public by, among such other means as the director finds appropriate, posting the report on the website of the Department of Insurance.