AN ACT

Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An act relating to insurance; amending, revising, and consolidating the law providing for the incorporation of insurance companies, and the regulation, supervision, and protection of home and foreign insurance companies, Lloyds associations, reciprocal and inter-insurance exchanges, and fire insurance rating bureaus, and the regulation and supervision of insurance carried by such companies, associations, and exchanges, including insurance carried by the State Workmen's Insurance Fund; providing penalties; and repealing existing laws," in casualty insurance, for the regulation of health insurance practices concerning parity and nondiscrimination; and further providing for coverage of alcohol or other drug abuse and dependency.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 604-B of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, added March 22, 2010 (P.L.147, No.14), is amended to read:

Section 604-B. Adoption of and Compliance with Federal acts.

(a) Insurers shall comply with the Federal acts as contained in sections 2701, 2702, 2705, 2707, 2721, 2753 and 2754 of the Public Health Service Act (58 Stat. 682, 42 U.S.C. §§ 300gg, 300gg-1, 300gg-5, 300gg-7, 300gg-21, 300gg-53 and 300gg-54).

(b) Each insurer shall submit an annual report to the Department on or before March 1 that contains the following information:

 (1) A description of the process used to develop or select the medical necessity criteria for mental health benefitsand alcohol or other drug abuse and dependency benefits,and the process used to develop or select the medical necessity criteria for medical and surgical benefits.

(2) Identification of all non-quantitative treatment limitations (NQTLs) that are applied to mental healthbenefits andalcohol or other drug abuse and dependency benefits, and all NQTLs that are applied to medical and surgical benefits; there may be no separate NQTLs that apply to mental health and substance use disorder benefits but do not apply to medical and surgical benefits within any classification of benefits.

(3) The results of an analysis that demonstrates that for the medical necessity criteria described in paragraph (2) and for each NQTL identified in paragraph (3), as written and in operation, the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL to mental healthandalcohol or other drug abuse and dependencybenefits are comparable to, and are applied no more stringently than the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL, as written and in operation, to medical and surgical benefits; at a minimum, the results of the analysis shall:

(i) Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected.

(ii) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each NQTL.

(iii) Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to design each NQTL, as written, and the as written processes and strategies used to apply the NQTL to mental health and alcohol or other drug abuse and dependency benefits are comparable to, and are applied no more stringently than, the processes and strategies used to design each NQTL, as written, and the as written processes and strategies used to apply the NQTL to medical and surgical benefits.

(iv) Provide the comparative analyses, including the results of the analyses, performed to determine that the processes and strategies used to apply each NQTL, in operation, for mental health and alcohol or other drug abuse and dependencybenefits are comparable to, and are applied no more stringently than, the processes or strategies used to apply each NQTL, in operation, for medical and surgical benefits.

(vi) Disclose the specific findings and conclusions reached by the insurer that the results of the analyses above indicate that the insurer is in compliance with this section and the Mental Health Parity and Addiction Equity Act of 2008 and its implementing and related regulations, which includes 45 CFR 146.136, 45 CFR 147.160, and 45 CFR 156.

Section 2. Section 606-B of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, added March 22, 2010 (P.L.147, No.14), is amended to read:

Section 606-B. Regulations[.]and Regulatory Implementation.

(a) The department may promulgate such regulations as may be necessary or appropriate to carry out this article.

(b) The department 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) Ensuring compliance by insurers.

(2) Evaluating all consumer or provider complaints regarding mental health and alcohol or other drug abuse and dependencycoverage for possible parity violations.

(3) Performing parity compliance market conduct examinations of insurers, 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 insurers 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 alcohol or other drug abuse and dependencybenefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits.

 (c) Not later than 6/30of each year, the department shall issue a report to the General Assembly and provide an educational presentation to the General Assembly. Such report and presentation shall:

 (1) Cover the methodology the department 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) Cover the methodology the department is using to check for compliance with sections 601-A, 602-A, 603-A, 604-A, 605-A, 606-A, 607-A, 608-A, and 635.1 of P.L.682, No.284.

 (3) Identify market conduct examinations conducted or completed during the preceding 12-month period regarding compliance with parity in mental health and alcohol or other drug abuse and dependencybenefits under state and federal laws and summarize the results of such market conduct examinations.

 (4) Detail any educational or corrective actions the department has taken to secure insurer compliance with MHPAEA and sections 601-A, 602-A, 603-A, 604-A, 605-A, 606-A, 607-A, 608-A, and 635.1 of P.L.682, No.284.

 (5) 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 department finds appropriate, posting the report on the department’s Internet website.

Section 3. Section 605-A of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, amended December 22, 1989, (P.L.755, No.106), is amended to read:

Section 605-A. Outpatient Alcohol or Other Drug Services.--(a) Minimal additional treatment as a covered benefit under this article shall be provided in a facility appropriately licensed by the Department of Health as an alcoholism or drug addiction treatment program. Before an insured may qualify to receive benefits under this section, a licensed physician or licensed psychologist must certify the insured as a person suffering from alcohol or other drug abuse or dependency and refer the insured for the appropriate treatment.

(b) The following services shall be covered under this section:

(1) Physician, psychologist, nurse, certified addictions counselor and trained staff services.

(2) Rehabilitation therapy and counseling.

(3) Family counseling and intervention.

(4) Psychiatric, psychological and medical laboratory tests.

(5) Drugs, medicines, equipment use and supplies.

(c) Treatment under this section shall be covered as required by this act for a minimum of thirty outpatient, full-session visits or equivalent partial visits per year. Treatment may be subject to a lifetime limit, for any covered individual, of one hundred and twenty outpatient, full-session visits or equivalent partial visits.

(d) In addition, treatment under this section shall be covered as required by this act for a minimum of thirty separate sessions of outpatient or partial hospitalization services per year, which may be exchanged on a two-to-one basis to secure up to fifteen additional non-hospital, residential alcohol treatment days.

(e) Each insurer that provides prescription drug benefits for the treatment of alcohol or other drug abuse shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of alcohol or other drug abuse.

(f) Each insurer that provides prescription drug benefits for the treatment of alcohol or other drug abuse shall not impose any step therapy requirements before the insurer will authorize coverage for a prescription medication approved by the FDA for the treatment of alcohol or other drug abuse.

(g) Each insurer that provides prescription drug benefits for the treatment of alcohol or other drug abuse shall place all prescription medications approved by the FDA for the treatment of alcohol or other drug abuse on the lowest tier of the drug formulary developed and maintained by the insurer.

(h) Each insurer that provides prescription drug benefits for the treatment of alcohol or other drug abuse shall not exclude coverage for any prescription medication approved by the FDA for the treatment of alcohol or other drug abuse and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.

Section 4. This act shall take effect immediately