

LEGISLATIVE COUNSEL'S DIGEST

AB 88, Thomson. Health care coverage: mental illness.

Under existing law, **a disability insurer or health care service plan may not discriminate based on race, color, religion, national origin, ancestry, marital status, or sexual orientation.** A disability insurer or health care service plan is also prohibited from refusing to insure a person or from charging a different premium or rate because of that person's blindness.

**This bill would require a health care service plan contract or disability insurance policy issued, amended, or renewed on or after July 1, 2000, to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, as defined, of a person of any age, and of serious emotional disturbances of a child, under the same terms and conditions applied to other medical conditions.** This bill would allow a health care service plan or disability insurer to provide the required mental health coverage through a separate specialized health care service plan or mental health plan subject to certain conditions, as specified. The bill would exempt from the provision relating to a health care service plan contract, a contract between the State Department of Health Services and a health care service plan for enrolled Medi-Cal beneficiaries. The bill would exempt certain insurance policies from these provisions.

Because a willful violation of the provisions relating to health care service plans is a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) Mental illness is real.
- (2) Mental illness can be reliably diagnosed.
- (3) Mental illness is treatable.
- (4) Treatment of mental illness is cost-effective.

(b) The Legislature further finds and declares all of the following:

- (1) There is increasing scientific evidence that severe mental illnesses, such as schizophrenia, bipolar disorders, and major depression, are as effectively treated with medications as other severe illnesses.
- (2) Most private health insurance policies provide coverage for mental illness at levels far below coverage for other physical illnesses.
- (3) Limitations in coverage for mental illness in private insurance policies have resulted in inadequate treatment for persons with these illnesses.
- (4) Inadequate treatment causes relapse and untold suffering for individuals with mental illness and their families.

(c) The Legislature further finds and declares all of the following:

- (1) Lack of adequate treatment and services for persons with mental illness has contributed significantly to homelessness, involvement with the criminal justice system, and other significant social problems experienced by individuals with mental illness and their families.
- (2) The failure to provide adequate coverage for mental illnesses in private health insurance policies has resulted in significant increased expenditures for state and local governments.

(d) The Legislature further finds and declares that other states that have adopted mental illness parity legislation have experienced minimal additional costs if medically necessary services were well managed.

SEC. 2. Section 1374.72 is added to the Health and Safety Code, to read:

1374.72. (a) Every health care service plan contract **issued, amended, or renewed on or after July 1, 2000**, that provides hospital, medical, or surgical coverage **shall provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child**, as specified in subdivisions (d) and (e), under the same terms and conditions applied to other medical conditions, as specified in subdivision (c).

(b) These benefits shall include the following:

- (1) Outpatient services.
- (2) Inpatient hospital services.
- (3) Partial hospital services.
- (4) Prescription drugs, if the plan contract includes coverage for prescription drugs.
- (c) The terms and conditions applied to the benefits required by this section, that shall be applied equally to all benefits under the plan contract, shall include, but not be limited to, the following:

- (1) Maximum lifetime benefits.
- (2) Copayments.
- (3) Individual and family deductibles.
- (d) For the purposes of this section, **"severe mental illnesses" shall include:**
  - (1) Schizophrenia.
  - (2) Schizoaffective disorder.
  - (3) Bipolar disorder (manic-depressive illness).
  - (4) Major depressive disorders.
  - (5) Panic disorder.
  - (6) Obsessive-compulsive disorder.
  - (7) **Pervasive developmental disorder or autism.**
  - (8) Anorexia nervosa.
  - (9) Bulimia nervosa.

(e) For the purposes of this section, **a child suffering from, "serious emotional disturbances of a child" shall be defined as a child who (1) has one or more mental disorders as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, that result in behavior inappropriate to the child's age according to expected developmental norms, and (2) who meets the criteria in paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.**

(f) This section shall not apply to contracts entered into pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Division 9 of Part 3 of the Welfare and Institutions Code, between the State Department of Health Services and a health care service plan for enrolled Medi-Cal beneficiaries.

(g) (1) For the purpose of compliance with this section, a plan may provide coverage for all or part of the mental health services required by this section through a separate specialized health care service plan or mental health plan, and shall not be required to obtain an additional or specialized license for this purpose.

(2) A plan shall provide the mental health coverage required by this section in its entire service area and in emergency situations as may be required by applicable laws and regulations. For purposes of this section, health care service plan contracts that provide benefits to enrollees through preferred provider contracting arrangements are not precluded from requiring enrollees who reside or work in geographic areas served by specialized health care service plans or mental health plans to secure all or part of their mental health services within those geographic areas served by specialized health care service plans or mental health plans.

(3) Notwithstanding any other provision of law, in the provision of benefits required by this section, a health care service plan may utilize case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing.

SEC. 3. Section 10144.5 is added to the **Insurance Code**, to read:

10144.5. (a) Every policy of disability insurance that covers hospital, medical, or surgical expenses in this state that is **issued, amended, or renewed on or after July 1, 2000, shall provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses of a person of any age, and of serious emotional disturbances of a child**, as specified in subdivisions (d) and (e), under the same terms and conditions applied to other medical conditions, as specified in subdivision (c).

(b) These benefits shall include the following:

- (1) Outpatient services.
- (2) Inpatient hospital services.
- (3) Partial hospital services.
- (4) Prescription drugs, if the policy or contract includes coverage for prescription drugs.

(c) The terms and conditions applied to **the benefits required by this section that shall be applied**

**equally to all benefits under the disability insurance policy** shall include, but not be limited to, the following:

- (1) Maximum lifetime benefits.
- (2) Copayments and coinsurance.
- (3) Individual and family deductibles.

(d) For the purposes of this section, "**severe mental illnesses**" shall include:

- (1) Schizophrenia.
- (2) Schizoaffective disorder.
- (3) Bipolar disorder (manic-depressive illness).
- (4) Major depressive disorders.
- (5) Panic disorder.
- (6) Obsessive-compulsive disorder.
- (7) Pervasive developmental disorder or autism.
- (8) Anorexia nervosa.
- (9) Bulimia nervosa.

**(e) For the purposes of this section, a child suffering from, "serious emotional disturbances of a child" shall be defined as a child who (1) has one or more mental disorders as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, that result in behavior inappropriate to the child's age according to expected developmental norms, and (2) who meets the criteria in paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.**

(f) (1) For the purpose of compliance with this section, a disability insurer may provide coverage for all or part of the mental health services required by this section through a separate specialized health care service plan or mental health plan, and shall not be required to obtain an additional or specialized license for this purpose.

(2) A disability insurer shall provide the mental health coverage required by this section in its entire in-state service area and in emergency situations as may be required by applicable laws and regulations. For purposes of this section, disability insurers are not precluded from requiring insureds who reside or work in geographic areas served by specialized health care service plans or mental health plans to secure all or part of their mental health services within those geographic areas served by specialized health care service plans or mental health plans.

(3) Notwithstanding any other provision of law, in the provision of benefits required by this section, a disability insurer may utilize case management, managed care, or utilization review.

(4) Any action that a disability insurer takes to implement this section, including, but not limited to, contracting with preferred provider organizations, shall not be deemed to be an action that would otherwise require licensure as a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(g) This section shall not apply to accident-only, specified disease, hospital indemnity, Medicare supplement, dental-only, or vision-only insurance policies.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime

or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

### **Welfare and Institutions Code 5600.3.**

To the extent resources are available, the primary goal of use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve the target populations identified in the following categories, which shall not be construed as establishing an order of priority:

(a)

- (1) Seriously emotionally disturbed children or adolescents.

(2) For the purposes of this part, "**seriously emotionally disturbed children or adolescents**" means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population **shall meet one or more of the following criteria:**

(A) As a result of the mental disorder the child has **substantial impairment in at least two** of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:

(i) The child is at risk of removal from home or has already been removed from the home.

(ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.

(B) The child displays one of the following: **psychotic features, risk of suicide or risk of violence due to a mental disorder.**

(C) The child **meets special education eligibility requirements** under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.