

**HOUSE BILL No. 2073**

By Committee on Insurance and Pensions

1-15

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. 2020 Supp. 40-2,105 and 40-2,105a and repealing the  
5 existing section.

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. 2020 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. 2020*  
25 *Supp. 39-2001 et seq., and amendments thereto, a psychiatric hospital*  
26 *licensed under the provisions of K.S.A. 2020 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 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 copayment,*  
19 *deductible or coinsurance 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 rules and regulation regulations.*

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. 2020 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. 2020 Supp. 39-2001 et seq., and amendments thereto,  
3 or a psychiatric hospital licensed under the provisions of K.S.A. 2020  
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 of medically necessary outpatient treatment and services*  
21 *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 copayment,*  
35 *deductible or coinsurance 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 rules~~ and ~~regulation regulations~~.

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. 2020 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.