

# SENATE . . . . . No. 2453

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
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SENATE, Thursday, April 19, 2018

The committee on Mental Health, Substance Use and Recovery, to whom was referred the petitions (accompanied by bill, Senate, No. 1093) of Jennifer L. Flanagan, Angelo M. Scaccia, Kimberly N. Ferguson, Kay Khan and others for legislation to further define medical necessity determinations; and (accompanied by bill, House, No. 1070) of Kay Khan and others relative to the determination of medically necessary services for mental health treatment,- reports the accompanying bill (Senate, No. 2453).

For the committee,  
Cindy F. Friedman

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## The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court  
(2017-2018)

An Act to further define medical necessity determinations.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 32A of the General Laws is hereby amended by inserting after  
2 section 17O the following section:-

3           Section 17P. For the purposes of this section the following terms shall, unless the context  
4 clearly requires otherwise, have the following meanings:

5           “Child and adolescent mental health acute treatment”, 24-hour medically supervised  
6 mental health services provided in an inpatient facility, licensed by the department of mental  
7 health, that provides psychiatric evaluation, management, treatment and discharge planning for  
8 children and adolescents in a structured treatment milieu.

9           “Child and adolescent mental health crisis stabilization services”, 24-hour clinically  
10 managed mental health diversionary or step-down services for children and adolescents, as  
11 defined by MassHealth, usually provided as an alternative to mental health acute treatment or  
12 following mental health acute treatment, which may include intensive crisis stabilization  
13 counseling, outreach to families and significant others and aftercare planning.

14 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health  
15 diversionary or step-down services for children and adolescents, as defined by the department of  
16 early education and care, usually provided as an alternative to mental health acute treatment.

17 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically  
18 managed mental health diversionary or step-down services for children and adolescents, as  
19 defined by the department of early education and care, usually provided as an alternative to  
20 mental health acute treatment.

21 The commission shall provide to any active or retired employee of the commonwealth  
22 who is insured under the group insurance commission coverage for medically necessary mental  
23 health acute treatment and shall not require a preauthorization prior to obtaining treatment.  
24 Medical necessity shall be determined by the treating clinician in consultation with the patient  
25 and noted in the patient’s medical record.

26 The commission shall provide to any active or retired employee of the commonwealth  
27 who is insured under the group insurance commission coverage for medically necessary mental  
28 health crisis stabilization services for up to 14 days and shall not require preauthorization prior to  
29 obtaining such services; provided, that the facility shall provide the carrier both notification of  
30 admission and the initial treatment plan within 48 hours of admission; provided further, that  
31 utilization review procedures may be initiated on day 7. Medical necessity shall be determined  
32 by the treating clinician in consultation with the patient and noted in the patient’s medical record.

33 The commission shall provide to any active or retired employee of the commonwealth  
34 who is insured under the group insurance commission coverage for medically necessary  
35 community based acute treatment services for up to 21 days; provided, that the facility shall

36 provide the carrier both notification of admission and the initial treatment plan within 48 hours  
37 of admission; provided further, that utilization review procedures may be initiated on day 10.  
38 Medical necessity shall be determined by the treating clinician in consultation with the patient  
39 and noted in the patient's medical record.

40 The commission shall provide to any active or retired employee of the commonwealth  
41 who is insured under the group insurance commission coverage for medically necessary  
42 intensive community based acute treatment services for up to 14 days; provided, that the facility  
43 shall provide the carrier both notification of admission and the initial treatment plan within 48  
44 hours of admission; provided further, that utilization review procedures may be initiated on day  
45 7. Medical necessity shall be determined by the treating clinician in consultation with the patient  
46 and noted in the patient's medical record.

47 SECTION 2. Chapter 118E of the General Laws is hereby amended by inserting after  
48 section 10J the following section:-

49 Section 10K. For the purposes of this section the following terms shall, unless the context  
50 clearly requires otherwise, have the following meanings:

51 "Child and adolescent mental health acute treatment", 24-hour medically supervised  
52 mental health services provided in an inpatient facility, licensed by the department of mental  
53 health, that provides psychiatric evaluation, management, treatment and discharge planning for  
54 children and adolescents in a structured treatment milieu.

55 "Child and adolescent mental health crisis stabilization services", 24-hour clinically  
56 managed mental health diversionary or step-down services for children and adolescents, as  
57 defined by MassHealth, usually provided as an alternative to mental health acute treatment or

58 following mental health acute treatment, which may include intensive crisis stabilization  
59 counseling, outreach to families and significant others and aftercare planning.

60 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health  
61 diversionary or step-down services for children and adolescents, as defined by the department of  
62 early education and care, usually provided as an alternative to mental health acute treatment.

63 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically  
64 managed mental health diversionary or step-down services for children and adolescents, as  
65 defined by the department of early education and care, usually provided as an alternative to  
66 mental health acute treatment.

67 The division and its contracted health insurers, health plans, health maintenance  
68 organizations, behavioral health management firms and third party administrators under contract  
69 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of  
70 medically necessary mental health acute treatment and shall not require a preauthorization prior  
71 to obtaining treatment. Medical necessity shall be determined by the treating clinician in  
72 consultation with the patient and noted in the patient’s medical record.

73 The division and its contracted health insurers, health plans, health maintenance  
74 organizations, behavioral health management firms and third party administrators under contract  
75 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of  
76 medically necessary mental health crisis stabilization services for up to 14 days and shall not  
77 require preauthorization prior to obtaining such services; provided, that the facility shall provide  
78 the carrier both notification of admission and the initial treatment plan within 48 hours of  
79 admission; provided further, that utilization review procedures may be initiated on day 7.

80 Medical necessity shall be determined by the treating clinician in consultation with the patient  
81 and noted in the patient's medical record.

82 The division and its contracted health insurers, health plans, health maintenance  
83 organizations, behavioral health management firms and third party administrators under contract  
84 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of  
85 medically necessary community based acute treatment services for up to 21 days; provided, that  
86 the facility shall provide the carrier both notification of admission and the initial treatment plan  
87 within 48 hours of admission; provided further, that utilization review procedures may be  
88 initiated on day 10. Medical necessity shall be determined by the treating clinician in  
89 consultation with the patient and noted in the patient's medical record.

90 The division and its contracted health insurers, health plans, health maintenance  
91 organizations, behavioral health management firms and third party administrators under contract  
92 to a Medicaid managed care organization or primary care clinician plan shall cover the cost of  
93 medically necessary intensive community based acute treatment services for up to 14 days;  
94 provided, that the facility shall provide the carrier both notification of admission and the initial  
95 treatment plan within 48 hours of admission; provided further, that utilization review procedures  
96 may be initiated on day 7. Medical necessity shall be determined by the treating clinician in  
97 consultation with the patient and noted in the patient's medical record.

98 SECTION 3. Chapter 175 of the General Laws is hereby amended by inserting after  
99 section 47II the following section:-

100 Section 47JJ. For the purposes of this section the following terms shall, unless the context  
101 clearly requires otherwise, have the following meanings:

102 “Child and adolescent mental health acute treatment”, 24-hour medically supervised  
103 mental health services provided in an inpatient facility, licensed by the department of mental  
104 health, that provides psychiatric evaluation, management, treatment and discharge planning for  
105 children and adolescents in a structured treatment milieu.

106 “Child and adolescent mental health crisis stabilization services”, 24-hour clinically  
107 managed mental health diversionary or step-down services for children and adolescents, as  
108 defined by MassHealth, usually provided as an alternative to mental health acute treatment or  
109 following mental health acute treatment, which may include intensive crisis stabilization  
110 counseling, outreach to families and significant others and aftercare planning.

111 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health  
112 diversionary or step-down services for children and adolescents, as defined by the department of  
113 early education and care, usually provided as an alternative to mental health acute treatment.

114 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically  
115 managed mental health diversionary or step-down services for children and adolescents, as  
116 defined by the department of early education and care, usually provided as an alternative to  
117 mental health acute treatment.

118 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or  
119 renewed within the commonwealth, which is considered creditable coverage under section 1 of  
120 chapter 111M, shall provide coverage for medically necessary mental health acute treatment and  
121 shall not require a preauthorization prior to obtaining treatment. Medical necessity shall be  
122 determined by the treating clinician in consultation with the patient and noted in the patient’s  
123 medical record.

124 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or  
125 renewed within the commonwealth, which is considered creditable coverage under section 1 of  
126 chapter 111M, shall provide coverage for medically necessary mental health crisis stabilization  
127 services for up to 14 days and shall not require preauthorization prior to obtaining such services;  
128 provided, that the facility shall provide the carrier both notification of admission and the initial  
129 treatment plan within 48 hours of admission; provided further, that utilization review procedures  
130 may be initiated on day 7. Medical necessity shall be determined by the treating clinician in  
131 consultation with the patient and noted in the patient's medical record.

132 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or  
133 renewed within the commonwealth, which is considered creditable coverage under section 1 of  
134 chapter 111M, shall provide coverage for medically necessary community based acute treatment  
135 services for up to 21 days; provided, that the facility shall provide the carrier both notification of  
136 admission and the initial treatment plan within 48 hours of admission; provided further, that  
137 utilization review procedures may be initiated on day 10. Medical necessity shall be determined  
138 by the treating clinician in consultation with the patient and noted in the patient's medical record.

139 Any policy, contract, agreement, plan or certificate of insurance issued, delivered or  
140 renewed within the commonwealth, which is considered creditable coverage under section 1 of  
141 chapter 111M, shall provide coverage for medically necessary intensive community based acute  
142 treatment services for up to 14 days; provided, that the facility shall provide the carrier both  
143 notification of admission and the initial treatment plan within 48 hours of admission; provided  
144 further, that utilization review procedures may be initiated on day 7. Medical necessity shall be  
145 determined by the treating clinician in consultation with the patient and noted in the patient's  
146 medical record.



147 SECTION 4. Chapter 176A of the General Laws is hereby amended by inserting after  
148 section 8KK the following section:-

149 Section 8LL. For the purposes of this section the following terms shall, unless the context  
150 clearly requires otherwise, have the following meanings:

151 “Child and adolescent mental health acute treatment”, 24-hour medically supervised  
152 mental health services provided in an inpatient facility, licensed by the department of mental  
153 health, that provides psychiatric evaluation, management, treatment and discharge planning for  
154 children and adolescents in a structured treatment milieu.

155 “Child and adolescent mental health crisis stabilization services”, 24-hour clinically  
156 managed mental health diversionary or step-down services for children and adolescents, as  
157 defined by MassHealth, usually provided as an alternative to mental health acute treatment or  
158 following mental health acute treatment, which may include intensive crisis stabilization  
159 counseling, outreach to families and significant others and aftercare planning.

160 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health  
161 diversionary or step-down services for children and adolescents, as defined by the department of  
162 early education and care, usually provided as an alternative to mental health acute treatment.

163 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically  
164 managed mental health diversionary or step-down services for children and adolescents, as  
165 defined by the department of early education and care, usually provided as an alternative to  
166 mental health acute treatment.

167 Any contract between a subscriber and the corporation under an individual or group  
168 hospital service plan which is delivered, issued or renewed within the commonwealth shall  
169 provide coverage for medically necessary mental health acute treatment and shall not require a  
170 preauthorization prior to obtaining treatment. Medical necessity shall be determined by the  
171 treating clinician in consultation with the patient and noted in the patient's medical record.

172 Any contract between a subscriber and the corporation under an individual or group  
173 hospital service plan which is delivered, issued or renewed within the commonwealth shall  
174 provide coverage for medically necessary mental health crisis stabilization services for up to 14  
175 days and shall not require preauthorization prior to obtaining such services; provided, that the  
176 facility shall provide the carrier both notification of admission and the initial treatment plan  
177 within 48 hours of admission; provided further, that utilization review procedures may be  
178 initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation  
179 with the patient and noted in the patient's medical record.

180 Any contract between a subscriber and the corporation under an individual or group  
181 hospital service plan which is delivered, issued or renewed within the commonwealth shall  
182 provide coverage for medically necessary community based acute treatment services for up to 21  
183 days; provided, that the facility shall provide the carrier both notification of admission and the  
184 initial treatment plan within 48 hours of admission; provided further, that utilization review  
185 procedures may be initiated on day 10. Medical necessity shall be determined by the treating  
186 clinician in consultation with the patient and noted in the patient's medical record.

187 Any contract between a subscriber and the corporation under an individual or group  
188 hospital service plan which is delivered, issued or renewed within the commonwealth shall

189 provide coverage for medically necessary intensive community based acute treatment services  
190 for up to 14 days; provided, that the facility shall provide the carrier both notification of  
191 admission and the initial treatment plan within 48 hours of admission; provided further, that  
192 utilization review procedures may be initiated on day 7. Medical necessity shall be determined  
193 by the treating clinician in consultation with the patient and noted in the patient’s medical record.

194 SECTION 5. Chapter 176B of the General Laws is hereby amended by inserting after  
195 section 4KK the following section:-

196 Section 4LL. For the purposes of this section the following terms shall, unless the context  
197 clearly requires otherwise, have the following meanings:

198 “Child and adolescent mental health acute treatment”, 24-hour medically supervised  
199 mental health services provided in an inpatient facility, licensed by the department of mental  
200 health, that provides psychiatric evaluation, management, treatment and discharge planning for  
201 children and adolescents in a structured treatment milieu.

202 “Child and adolescent mental health crisis stabilization services”, 24-hour clinically  
203 managed mental health diversionary or step-down services for children and adolescents, as  
204 defined by MassHealth, usually provided as an alternative to mental health acute treatment or  
205 following mental health acute treatment, which may include intensive crisis stabilization  
206 counseling, outreach to families and significant others and aftercare planning.

207 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health  
208 diversionary or step-down services for children and adolescents, as defined by the department of  
209 early education and care, usually provided as an alternative to mental health acute treatment.

210 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically  
211 managed mental health diversionary or step-down services for children and adolescents, as  
212 defined by the department of early education and care, usually provided as an alternative to  
213 mental health acute treatment.

214 Any subscription certificate under an individual or group medical service agreement  
215 delivered, issued or renewed within the commonwealth shall provide coverage for medically  
216 necessary mental health acute treatment and shall not require a preauthorization prior to  
217 obtaining treatment. Medical necessity shall be determined by the treating clinician in  
218 consultation with the patient and noted in the patient’s medical record.

219 Any subscription certificate under an individual or group medical service agreement  
220 delivered, issued or renewed within the commonwealth shall provide coverage for medically  
221 necessary mental health crisis stabilization services for up to 14 days and shall not require  
222 preauthorization prior to obtaining such services; provided, that the facility shall provide the  
223 carrier both notification of admission and the initial treatment plan within 48 hours of admission;  
224 provided further, that utilization review procedures may be initiated on day 7. Medical necessity  
225 shall be determined by the treating clinician in consultation with the patient and noted in the  
226 patient’s medical record.

227 Any subscription certificate under an individual or group medical service agreement  
228 delivered, issued or renewed within the commonwealth shall provide coverage for medically  
229 necessary community based acute treatment services for up to 21 days; provided, that the facility  
230 shall provide the carrier both notification of admission and the initial treatment plan within 48  
231 hours of admission; provided further, that utilization review procedures may be initiated on day

232 10. Medical necessity shall be determined by the treating clinician in consultation with the  
233 patient and noted in the patient's medical record.

234 Any subscription certificate under an individual or group medical service agreement  
235 delivered, issued or renewed within the commonwealth shall provide coverage for medically  
236 necessary intensive community based acute treatment services for up to 14 days; provided, that  
237 the facility shall provide the carrier both notification of admission and the initial treatment plan  
238 within 48 hours of admission; provided further, that utilization review procedures may be  
239 initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation  
240 with the patient and noted in the patient's medical record.

241 SECTION 6. Chapter 176G of the General Laws is hereby amended by inserting after  
242 section 4CC the following section:-

243 Section 4DD. For the purposes of this section the following terms shall, unless the  
244 context clearly requires otherwise, have the following meanings:

245 "Child and adolescent mental health acute treatment", 24-hour medically supervised  
246 mental health services provided in an inpatient facility, licensed by the department of mental  
247 health, that provides psychiatric evaluation, management, treatment and discharge planning for  
248 children and adolescents in a structured treatment milieu.

249 "Child and adolescent mental health crisis stabilization services", 24-hour clinically  
250 managed mental health diversionary or step-down services for children and adolescents, as  
251 defined by MassHealth, usually provided as an alternative to mental health acute treatment or  
252 following mental health acute treatment, which may include intensive crisis stabilization  
253 counseling, outreach to families and significant others and aftercare planning.

254 “Community-based acute treatment (CBAT)”, 24-hour clinically managed mental health  
255 diversionary or step-down services for children and adolescents, as defined by the department of  
256 early education and care, usually provided as an alternative to mental health acute treatment.

257 “Intensive community-based acute treatment (ICBAT)”, intensive 24-hour clinically  
258 managed mental health diversionary or step-down services for children and adolescents, as  
259 defined by the department of early education and care, usually provided as an alternative to  
260 mental health acute treatment.

261 Any individual or group health maintenance contract that is issued or renewed shall  
262 provide coverage for medically necessary mental health acute treatment and shall not require a  
263 preauthorization prior to obtaining treatment. Medical necessity shall be determined by the  
264 treating clinician in consultation with the patient and noted in the patient’s medical record.

265 Any individual or group health maintenance contract that is issued or renewed shall  
266 provide coverage for medically necessary mental health crisis stabilization services for up to 14  
267 days and shall not require preauthorization prior to obtaining such services; provided, that the  
268 facility shall provide the carrier both notification of admission and the initial treatment plan  
269 within 48 hours of admission; provided further, that utilization review procedures may be  
270 initiated on day 7. Medical necessity shall be determined by the treating clinician in consultation  
271 with the patient and noted in the patient’s medical record.

272 Any individual or group health maintenance contract that is issued or renewed shall  
273 provide coverage for medically necessary community based acute treatment services for up to 21  
274 days; provided, that the facility shall provide the carrier both notification of admission and the  
275 initial treatment plan within 48 hours of admission; provided further, that utilization review

276 procedures may be initiated on day 10. Medical necessity shall be determined by the treating  
277 clinician in consultation with the patient and noted in the patient's medical record.

278           Any individual or group health maintenance contract that is issued or renewed shall  
279 provide coverage for medically necessary intensive community based acute treatment services  
280 for up to 14 days; provided, that the facility shall provide the carrier both notification of  
281 admission and the initial treatment plan within 48 hours of admission; provided further, that  
282 utilization review procedures may be initiated on day 7. Medical necessity shall be determined  
283 by the treating clinician in consultation with the patient and noted in the patient's medical record.