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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO INSURANCE -- MENTAL HEALTH SERVICE PROVIDER
COMPENSATION ACT

Introduced By: Senators Bell, Ujifusa, DiMario, Mack, and Murray

Date Introduced: March 01, 2024

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 27 of the General Laws entitled "INSURANCE" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 38.3

4 MENTAL HEALTH SERVICE PROVIDER COMPENSATION ACT

5 **27-38.3-1. Short title.**

6 This chapter shall be known and may be cited as the "Mental Health Service Provider
7 Compensation Act."

8 **27-38.3-2. Goals and purpose.**

9 The goals and purpose of this chapter are to:

10 (1) Establish a robust and effective regulatory system of oversight and enforcement for
11 insurance reimbursement to mental health care service providers for services rendered to patients.

12 (2) Expand mental health care service availability for insured individuals by setting a
13 reimbursement rate structure that encourages mental health professionals to accept insurance
14 reimbursement for services rendered.

15 (3) Minimize, if not eliminate, the private-pay market for mental health treatment or care
16 by regulating insurance reimbursement rates and setting a reasonable floor rate determined by
17 regional market rates in order that mental health care professionals have no financial incentive to
18 refuse mental health patient care to insured individuals due to inadequate reimbursement rates.

1 **27-38.3-3. Definitions.**

2 For purposes of this chapter, the following words and terms shall have the following
3 meanings:

4 (1) "Commissioner" means the health insurance commissioner appointed pursuant to the
5 provisions of § 42-14.5-3.

6 (2) "Domestic health insurer" means any entity subject to the insurance laws and
7 regulations of this state, or subject to the jurisdiction of the health insurance commissioner, that
8 contracts or offers to contract, to provide and/or insuring health services on a prepaid basis,
9 including, but not limited to, policies of accident and sickness insurance subject to chapter 18 of
10 title 27; any nonprofit hospital service corporation subject to chapter 19 of title 27; any nonprofit
11 medical service corporation subject to chapter 20 of title 27; any health maintenance organization
12 subject to chapter 41 of title 27; or any health benefit plan issued by the State of Rhode Island, a
13 municipality, a quasi-public agency, or any other political subdivision of the State of Rhode Island
14 to cover employees, retirees, or the dependents thereof. A domestic health insurer shall be construed
15 to include any pharmacy benefit manager or other entity that subcontracts with it.

16 (3) "Health insurer" means any domestic health insurer and any plan that provides benefits
17 consisting of medical care (provided directly, through insurance or reimbursement, or otherwise
18 and including items and services paid for as medical care), except Medicaid plans and managed
19 care organizations, Medicare plans, and any plan that the health insurance commissioner shall
20 determine to be federally preempted from state regulation over the rates paid to providers. The
21 health insurance commissioner may provisionally designate a plan as exempt from the definition
22 of a health insurer in order to study whether it is federally preempted from state regulation over the
23 rates paid to providers. A health insurer shall be construed to include any pharmacy benefit manager
24 or other entity that subcontracts with it.

25 (4) "Mental health professional" shall have the same meaning as defined in § 40.1-5-2.

26 (5) "Qualified healthcare services" means outpatient behavioral healthcare services,
27 including, but not limited to, services provided by mental health professionals.

28 **27-38.3-4. Powers and duties.**

29 In addition to the powers and duties promulgated in § 42-14.5-3, the health insurance
30 commissioner appointed pursuant to the provisions of § 42-14.5-1 shall have the following powers
31 and duties:

32 (1) To investigate and establish minimum reimbursement rates to be paid to providers by
33 health insurers for qualified healthcare services pursuant to § 27-38.3-5;

34 (2) To establish maximum timeframes for payments by domestic health insurers to

1 providers for qualified healthcare services;

2 (3) To limit or eliminate co-payments, deductibles, and prior authorization requirements
3 imposed by domestic health insurers for qualified healthcare services;

4 (4) To mandate specific qualified healthcare services that domestic health insurers must
5 cover;

6 (5) To take enforcement action against any person or entity subject to the provisions of this
7 chapter who fails to comply with regulatory requirements imposed by the commissioner pursuant
8 to this chapter;

9 (6) To conduct public hearings pursuant to the provisions of chapter 35 of title 42
10 ("administrative procedures") for the purposes of making decisions pursuant to this chapter; and

11 (7) To promulgate rules and regulations to implement the provisions of this chapter.

12 **27-38.3-5. Reimbursement rate determination.**

13 (a) The commissioner shall determine a minimum reimbursement rate to be paid to
14 providers by health insurers for qualified healthcare services. The minimum reimbursement rate
15 shall also not be less than the mean rate paid for qualified healthcare services by health insurers
16 and private pay patients in Massachusetts and Connecticut or one hundred fifty percent (150%) of
17 the Medicare reimbursement rate for equivalent services.

18 (b) The commissioner shall consult with the mental health advocate on the implementation
19 of the provisions of this chapter.

20 (c) The commissioner shall annually review and adjust the reimbursement rates.

21 **27-38.3-6. Enforcement.**

22 (a) The commissioner is authorized to initiate a complaint against any person or entity
23 failing to comply with the provisions of all reimbursement rate determinations or the rules and
24 regulations promulgated pursuant to the provisions of this chapter. Contested cases shall be
25 conducted pursuant to the provisions of § 42-35-9.

26 (b) The commissioner shall adopt rules and regulations concerning hearings for persons or
27 entities allegedly violating the reimbursement rate determinations or other provisions of this
28 chapter or the rules and regulations promulgated pursuant to the provisions of this chapter.

29 (c) The commissioner shall have the power after the hearing to issue an order that the
30 respondent to a complaint cease and desist from any further violation of this chapter, and/or take
31 any affirmative action including, but not limited to, ordering payment or reimbursement to any
32 person or entity suffering monetary loss as a result of the violation.

33 (d) For a willful or repeated violation, the commissioner may impose a civil penalty of up
34 to ten thousand dollars (\$10,000) per violation.

1 (e) A final order of the commissioner shall constitute an "order" within the meaning of §
2 42-35-1; is enforceable as an order; is to be rendered in accordance with § 42-35-12; and is subject
3 to judicial review in accordance with § 42-35-15.

4 **27-38.3-7. Private and representative actions.**

5 (a) On January 1, 2026 and thereafter, any person aggrieved by the failure of any entity to
6 comply with the provisions of this chapter or the promulgated rules and regulations implementing
7 the provisions of this chapter may bring an action pursuant to the rules of civil procedure in the
8 superior court to enforce the provisions of this chapter and to recover any actual damages suffered
9 from the violation of this chapter or the implementing rules and regulations. The court shall award
10 damages equal to three (3) times the amount of the actual proven damages plus attorneys' fees and
11 costs, in addition to injunctive or other equitable relief.

12 (b) On January 1, 2026, and thereafter the attorney general, a representative of the office
13 of mental health advocate or any health care provider may bring an action pursuant to the rules of
14 civil procedure in the superior court for injunctive or other relief to enforce the provisions of this
15 chapter or the rules and regulations promulgated to implement this chapter.

16 (c) In an action pursuant to subsection (b) of this section, the commissioner may be named
17 as a party to the litigation and the commissioner may be subject to the equitable jurisdiction of the
18 superior court for purpose of rate review and regulatory implementation and enforcement. Upon
19 finding that the commissioner failed to take action necessary to implement or to enforce the
20 provisions of this chapter, the court shall enter such orders as are necessary to accomplish the
21 provisions of this chapter.

22 **27-38.3-8. Severability.**

23 If any provisions of this chapter or its application to any person or circumstance is held
24 invalid, the invalidity shall not effect other provisions or applications of this chapter which shall be
25 given effect without the invalid provisions or applications, and to this end the provisions of this
26 chapter are severable.

27 SECTION 2. This act shall take upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE -- MENTAL HEALTH SERVICE PROVIDER
COMPENSATION ACT

1 This act would expand the authority of the health insurance commissioner. The
2 commissioner would have the authority to set reasonable reimbursement rates for mental health
3 professionals and limit or eliminate prior authorization for receipt of mental health services and co-
4 pays or deductibles for mental health-related medication.

5 This act would take effect upon passage.

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