**SENATE**

**STATE OF MINNESOTA**

**S.F. No. XXXX**

**NINETY-FIRST SESSION**

**(SENATE AUTHORS: \_\_\_\_\_\_, \_\_\_\_\_\_, \_\_\_\_\_\_, \_\_\_\_\_\_\_ and \_\_\_\_\_\_)**

**Date D-PG OFFICIAL STATUS**

A bill for an act

relating to insurance; requiring health plan transparency; requiring Department of Commerce Accountability; requiring ease of access to medications for chemical dependency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2018, Section 62Q.47 is amended to read:

62Q.47 ALCOHOLISM, MENTAL HEALTH, AND CHEMICAL DEPENDENCY SERVICES.

(a) All health plans, as defined in section 62Q.01, that provide coverage for alcoholism, mental health, or chemical dependency services or medications, must comply with the requirements of this section.

(b) Cost-sharing requirements and benefit or service limitations for outpatient mental health and outpatient chemical dependency and alcoholism services, except for persons placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to 9530.6660, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for outpatient medical services.

(c) Cost-sharing requirements and benefit or service limitations for inpatient hospital mental health and inpatient hospital and residential chemical dependency and alcoholism services, except for persons placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to 9530.6660, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for inpatient hospital medical services.

(d) All health plans must meet the requirements of the federal Mental Health Parity Act of 1996, Public Law 104-204; Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008; the Affordable Care Act; and any amendments to, and federal guidance or regulations issued under, those acts.

(e) Allhealth plan companiesthat provide coverage for alcoholism, mental health, or chemical dependency services must submit an annual report to the Department of Commerce 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 alcoholism, mental health, or chemical 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 alcoholism, mental health, or chemical dependencybenefits and all NQTLs that are applied to medical and surgical benefits; there may be no separate NQTLs that apply to alcoholism, mental health, or chemical dependency 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 item (1) and for each NQTL identified in item (2), as written and in operation, the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL to alcoholism, mental health, or chemical 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 alcoholism, mental health, or chemical dependencybenefits 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 alcoholism, mental health, or chemical dependencybenefits are comparable to, and applied no more stringently than, the processes or strategies used to apply each NQTL, in operation, for medical and surgical benefits; and

(v) Disclose the specific findings and conclusions reached by the health plan company that the results of the analyses above indicate that the health plan company 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 156.115(a)(3).

(f) The commissioner of commerce shall implement and enforce applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. 18031(j), and any amendments to, and federal guidance or regulations issued under, those acts, including 45 CFR Parts 146 and 147, 45 CFR 156.115(a)(3), 62Q.47, and 62Q.53, which includes:

(1) Proactively ensuring compliance by health plan companies that provide coverage for alcoholism, mental health, or chemical dependency services;

(2) Evaluating, all consumer and provider complaints regarding alcoholism, mental health, or chemical dependency for possible parity violations;

(3) Performing parity compliance market conduct examinations of health plan companies, 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 health plan companies submit comparative analyses during the form review process demonstrating how they design and apply nonquantitative treatment limitations, both as written and in operation, for alcoholism, mental health, or chemical dependency benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits; and

(5) The commissioner of commerce may adopt rules, under 14.05, as may be necessary to effectuate any provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 that relate to the business of insurance.

(g) All health plan companies that provide coverage of prescription medications for the treatment of chemical dependency shall comply with the following:

(1) Each health plan company shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of chemical dependency;

(2) Each health plan company shall not impose any step therapy requirements before the health plan company will authorize coverage for a prescription medication approved by the FDA for the treatment of chemical dependency;

(3) Each health plan company shall place all prescription medications approved by the FDA for the treatment of chemical dependency on the lowest tier of the drug formulary developed and maintained by the health plan company; and

(4) Each health plan company shall not exclude coverage for any prescription medication approved by the FDA for the treatment of chemical dependency and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.