SENATE BILL NO. XXX

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

**BY SENATOR \_\_\_\_\_\_\_**

**Introduced: 1/XX/2019**

**Referred: Health and Human Services, Labor and Commerce, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

**“An Act requiring health care insurers to demonstrate compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA); specifying MHPAEA implementation for the director; specifying coverage requirements for medications for the treatment of substance use disorders; and providing for an effective date.”**

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

**\*Section 1.** AS 21.51 is amended by adding a new section to read:

**Sec. 21.51.350. Mental health and substance use disorder parity reporting.** (a) Each health care insurer that offers a health care insurance plan in the individual market that provides mental health and substance use disorder benefits shall submit an annual report to the director 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 mental health and substance use disorder 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 both mental health and substance use disorder benefits and medical and surgical benefits within each classification of benefits; there may be no separate NQTLs that apply to mental health and substance use disorder 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 paragraph (1) and for each NQTL identified in paragraph (2), as written and in operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to mental health and substance use disorder benefits within each classification of benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding classification of benefits; at a minimum, the results of the analysis shall:

(A) Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected;

(B) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each NQTL;

(C) 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 mental health and substance use disorder benefits 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;

(D) 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 mental health and substance use disorder benefits are comparable to, and are applied no more stringently than, the processes or strategies used to apply each NQTL, in operation, for medical and surgical benefits; and

(E) Disclose the specific findings and conclusions reached by the health care insurer that the results of the analyses above indicate that the health care insurer 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).

**\*Sec. 2.** AS 21.54 is amended by adding a new section to read:

**Sec. 21.54.152. Mental health and substance use disorder parity reporting.** (a) Each health care insurer that offers a health care insurance plan in the group market that provides mental health and substance use disorder benefits shall submit an annual report to the director 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 mental health and substance use disorder 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 both mental health and substance use disorder benefits and medical and surgical benefits within each classification of benefits; there may be no separate NQTLs that apply to mental health and substance use disorder 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 paragraph (1) and for each NQTL identified in paragraph (2), as written and in operation, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to mental health and substance use disorder benefits within each classification of benefits are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the medical necessity criteria and each NQTL to medical and surgical benefits within the corresponding classification of benefits; at a minimum, the results of the analysis shall:

(A) Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected;

(B) Identify and define the specific evidentiary standards used to define the factors and any other evidence relied upon in designing each NQTL;

(C) 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 mental health and substance use disorder benefits 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;

(D) 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 mental health and substance use disorder benefits are comparable to, and are applied no more stringently than, the processes or strategies used to apply each NQTL, in operation, for medical and surgical benefits; and

(E) Disclose the specific findings and conclusions reached by the health care insurer that the results of the analyses above indicate that the health care insurer 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).

**\*Sec. 3.** AS 21.06 is amended by adding a new section to read:

**Sec. AS 21.06.265. Implementation of the Mental Health Parity and Addiction Equity Act.** (a) The director shall implement and enforce applicable provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, and any amendments to, and any federal guidance or regulations relevant to, that act, including 45 CFR 146.136, 45 CFR 147.136, 45 CFR 147.160, and 45 CFR 156.115(a)(3), which includes:

(1) Proactively ensuring compliance by health care insurers that offer health insurance plans in the individual and group markets that provide mental health and substance use disorder benefits;

(2) Evaluating all consumer or provider complaints regarding mental health and substance use disorder coverage for possible parity violations

(3) Performing parity compliance market conduct examinations of health care insurers that offer health insurance plans in the individual and group markets that provide mental health and substance use disorder benefits, 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 care insurers submit comparative analyses during the form review process demonstrating how they design and apply nonquantitative treatment limitations, both as written and in operation, for mental health and substance use disorder benefits as compared to how they design and apply nonquantitative treatment limitations, as written and in operation, for medical and surgical benefits.

(5) The director may adopt rules, as authorized under 21-06.090, 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.

(b) Not later than April 1, 2020, the director shall issue a report to the Legislature, which shall:

(1) Cover the methodology the director is using to check for compliance with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), and any federal regulations or guidance relating to the compliance and oversight of MHPAEA;

(2) Identify market conduct examinations conducted or completed during the preceding 12-month period regarding compliance with parity in mental health and substance use disorder benefits under state and federal laws and summarize the results of such market conduct examinations;

(3) Detail any educational or corrective actions the director has taken to ensure insurer compliance with MHPAEA;

(4) The report must be written in non-technical, readily understandable language and shall be made available to the public by, among such other means as the director finds appropriate, posting the report on the Internet website of the Division of Insurance.

**\*Sec. 4.** AS 21.51 is amended by adding a new section to read:

**Sec. 21.51.355. Medication-assisted treatment.** (a) Each health care insurer that offers a health care insurance plan in the individual market that provides prescription drug benefits for the treatment of substance use disorder shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of substance use disorders.

(b) Each health care insurer that offers a health care insurance plan in the individual market that provides prescription drug benefits for the treatment of substance use disorder shall not impose any step therapy requirements before the health care insurer will authorize coverage for a prescription medication approved by the FDA for the treatment of substance use disorders.

(c) Each health care insurer that offers a health care insurance plan in the individual market that provides prescription drug benefits for the treatment of substance use disorder shall place all prescription medications approved by the FDA for the treatment of substance use disorders on the lowest tier of the drug formulary developed and maintained by the health care insurer.

(d) Each health care insurer that offers a health care insurance plan in the individual market that provides prescription drug benefits for the treatment of substance use disorder shall not exclude coverage for any prescription medication approved by the FDA for the treatment of substance use disorders and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.

**\*Sec. 5.** AS 21.54 is amended by adding a new section to read:

**Sec. 21.54.153. Medication-assisted treatment.** (a) Each health care insurer that offers a health care insurance plan in the group market that provides prescription drug benefits for the treatment of substance use disorder shall not impose any prior authorization requirements on any prescription medication approved by the federal Food and Drug Administration (FDA) for the treatment of substance use disorders.

(b) Each health care insurer that offers a health care insurance plan in the individual market that provides prescription drug benefits for the treatment of substance use disorder shall not impose any step therapy requirements before the health care insurer will authorize coverage for a prescription medication approved by the FDA for the treatment of substance use disorders.

(c) Each health care insurer that offers a health care insurance plan in the individual market that provides prescription drug benefits for the treatment of substance use disorder shall place all prescription medications approved by the FDA for the treatment of substance use disorders on the lowest tier of the drug formulary developed and maintained by the health care insurer.

(d) Each health care insurer that offers a health care insurance plan in the individual market that provides prescription drug benefits for the treatment of substance use disorder shall not exclude coverage for any prescription medication approved by the FDA for the treatment of substance use disorders and any associated counseling or wraparound services on the grounds that such medications and services were court ordered.

**\* Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. This act applies to a health insurance plan, contract, or policy that is offered, issued for delivery, delivered, or renewed on or after the effective date of this act.

**\*Sec. 7.** This Act takes effect July 1, 2019.