

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 647**

Introduced by Johnson, 37; Aguilar, 35; Kruse, 13; Pedersen, 39;  
Schimek, 27; Synowiecki, 7

Read first time January 17, 2007

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-791,  
2 44-792, 44-793, and 44-794, Reissue Revised Statutes of  
3 Nebraska; to change and eliminate provisions relating  
4 to insurance coverage of mental health and physical  
5 health conditions; to state intent; to redefine terms; to  
6 harmonize provisions; to provide an operative date; and  
7 to repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 44-791, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           44-791 The Legislature finds that mental health  
4 conditions affect a significant number of Nebraskans. Mental  
5 health conditions, like severe physical injuries or illness, can  
6 be life-altering and debilitating in nature. If properly treated  
7 and managed by mental health professionals and substance abuse  
8 professionals, persons with mental health conditions can and do  
9 lead full and productive lives. However, without such treatment  
10 or management, many mental health conditions will progressively  
11 deteriorate and negatively impact upon a person's livelihood,  
12 social relationships, and physical health.

13           The Legislature also finds that many persons with mental  
14 health conditions either do not seek treatment or do not complete  
15 or maintain such treatment programs. Treatment options are not  
16 underutilized due to the scarcity of professional resources or  
17 the lack of desire on the part of persons with mental health  
18 conditions, but rather treatment has become unaffordable as ~~the~~  
19 ~~result of the rising health care costs combined with a lack~~ due  
20 to a disparate level of insurance coverage for mental health  
21 conditions that is available at an affordable cost. The associated  
22 societal and monetary costs of providing no treatment or untimely  
23 treatment to persons with mental health conditions are great. It  
24 is the intent of sections 44-791 to 44-795 that persons with group  
25 health insurance plans ~~providing coverage~~ are provided a parity

1 of benefits for mental health and physical health conditions. ~~be~~  
2 ~~provided with a minimum level of coverage.~~

3           Sec. 2. Section 44-792, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           44-792 For purposes of sections 44-791 to 44-795:

6           (1) Health insurance plan means (a) any group  
7 sickness and accident insurance policy, group health maintenance  
8 organization contract, or group subscriber contract delivered,  
9 issued for delivery, or renewed in this state and (b) any  
10 self-funded employee benefit plan to the extent not preempted by  
11 federal law. Health insurance plan includes any group policy,  
12 group contract, or group plan offered or administered by the state  
13 or its political subdivisions. Health insurance plan does not  
14 include group policies providing coverage for a specified disease,  
15 accident-only coverage, hospital indemnity coverage, disability  
16 income coverage, medicare supplement coverage, long-term care  
17 coverage, or other limited-benefit coverage. Health insurance plan  
18 does not include any policy, contract, or plan covering an employer  
19 group that covers fewer than fifteen employees;

20           (2) Mental health condition means any condition or  
21 disorder involving mental illness that falls under any of the  
22 diagnostic categories listed in the (a) Mental Disorders Section of  
23 the International Classification of Disease or (b) the Diagnostic  
24 and Statistical Manual of Mental Disorders;

25           (3) Mental health professional means (a) a practicing

1 physician licensed to practice medicine in this state under  
 2 the provisions of section 71-102, (b) a practicing psychologist  
 3 licensed to engage in the practice of psychology in this state as  
 4 provided in section 71-1,206.14, ~~or~~ (c) a practicing mental health  
 5 professional licensed or certified in this state as provided in  
 6 section 71-1,333, (d) a practicing advanced practice registered  
 7 nurse licensed to practice nursing in this state under the Advanced  
 8 Practice Registered Nurse Act, or (e) a practicing alcohol and drug  
 9 counselor licensed under the Uniform Licensing Law; and

10 (4) Rate, term, or condition means lifetime limits,  
 11 annual payment limits, deductibles, copayment levels, coinsurance  
 12 levels, and inpatient or outpatient service limits and medication  
 13 management and other financial components or treatment limits of  
 14 the insurance coverage. Rate, term, or condition does not include  
 15 any deductibles, copayments, or coinsurance, and

16 ~~(5)(a) Serious mental illness means, prior to January~~  
 17 ~~1, 2002, (i) schizophrenia, (ii) schizoaffective disorder, (iii)~~  
 18 ~~delusional disorder, (iv) bipolar affective disorder, (v) major~~  
 19 ~~depression, and (vi) obsessive compulsive disorder; and~~

20 ~~(b) Serious mental illness means, on and after January~~  
 21 ~~1, 2002, any mental health condition that current medical science~~  
 22 ~~affirms is caused by a biological disorder of the brain and that~~  
 23 ~~substantially limits the life activities of the person with the~~  
 24 ~~serious mental illness. Serious mental illness includes, but is not~~  
 25 ~~limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii)~~

1 ~~delusional disorder, (iv) bipolar affective disorder, (v) major~~  
2 ~~depression, and (vi) obsessive compulsive disorder.~~

3           Sec. 3. Section 44-793, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           44-793 (1) On or after January 1, 2000, 2008,  
6 notwithstanding section 44-3,131, any health insurance plan  
7 delivered, issued, or renewed in this state ~~(a) if shall provide~~  
8 ~~coverage is provided~~ for treatment of mental health conditions  
9 ~~other than alcohol or substance abuse, (i) and shall not establish~~  
10 any rate, term, or condition that places a greater financial  
11 burden on ~~an~~ the insured for access to treatment for a ~~serious~~  
12 ~~mental illness than for access to treatment for~~ mental health  
13 condition rather than for access to treatment for a physical health  
14 condition. Any deductible or out-of-pocket limits required under  
15 a health insurance plan shall be comprehensive for coverage of  
16 both mental health and physical health conditions. ~~and (ii) if an~~  
17 ~~out-of-pocket limit is established for physical health conditions,~~  
18 ~~shall apply such out-of-pocket limit as a single comprehensive~~  
19 ~~out-of-pocket limit for both physical health conditions and mental~~  
20 ~~health conditions, or (b) if no coverage is to be provided for~~  
21 ~~treatment of mental health conditions, shall provide clear and~~  
22 ~~prominent notice of such noncoverage in the plan.~~

23           (2) If a health insurance plan provides coverage for  
24 ~~serious mental illness, the~~ A health insurance plan shall cover  
25 health care rendered for treatment of ~~serious mental illness~~ mental

1 health conditions (a) by a mental health professional, (b) by a  
2 person authorized by the rules and regulations of the Department  
3 of Health and Human Services Regulation and Licensure to provide  
4 treatment for mental illness, (c) in a mental health center as  
5 defined in section 71-423, or (d) in any other health care facility  
6 licensed under the Health Care Facility Licensure Act that provides  
7 a program for the treatment of a mental health condition pursuant  
8 to a written plan. The issuer of a health insurance plan may  
9 require a health care provider under this subsection to enter into  
10 a contract as a condition of providing benefits.

11 (3) The Director of Insurance may disapprove any plan  
12 that the director determines to be inconsistent with the purposes  
13 of this section.

14 Sec. 4. Section 44-794, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 44-794 (1) Sections 44-791 to 44-795 shall not be  
17 construed to:

18 ~~(a) Require a health insurance plan to provide coverage~~  
19 ~~for mental health conditions or serious mental illnesses;~~

20 ~~(b) Require a health insurance plan to provide the same~~  
21 ~~rates, terms, or conditions between treatments for serious mental~~  
22 ~~illnesses and preventative care;~~

23 ~~(c) (a) Prohibit a health insurance plan from providing~~  
24 ~~separate reimbursement rates and service delivery systems,~~  
25 ~~including, but not limited to, mental health carve-out programs~~

1 even if the plan does not provide similar options for the treatment  
2 of physical health conditions. A health insurance plan provided in  
3 compliance with section 44-793 shall not be construed to violate  
4 the Managed Care Plan Network Adequacy Act; provided that, if the  
5 separate reimbursement rates and service delivery systems are in  
6 compliance with rules and regulations adopted and promulgated by  
7 the Director of Insurance, that assure the system for delivery of  
8 treatment for mental health conditions does not diminish or negate  
9 the requirements of section 44-793; or

10           ~~(d)~~ (b) Prohibit a health insurance plan from managing  
11 the provision of benefits through common methods, including, but  
12 not limited to, preadmission screening, prior authorization of  
13 services, or other mechanisms designed to limit coverage to  
14 services for mental health conditions that are deemed to be  
15 medically necessary and clinically appropriate.

16           (2) A health insurance plan does not violate section  
17 44-793 if the plan applies different rates, terms, and conditions  
18 or excludes entirely from coverage the following:

19           (a) Marital, family, educational, developmental, or  
20 training services;

21           (b) Care that is substantially custodial in nature;

22           (c) Services and supplies that are not medically  
23 necessary or clinically appropriate; or

24           (d) Experimental treatments.

25           (3) A health insurance plan may use a case management

1 program or managed care organization to evaluate, determine,  
2 and provide or arrange for medically necessary and clinically  
3 appropriate care and treatment of each person with a mental health  
4 condition ~~or serious mental illness~~ who is covered by the plan.

5 (4) A health insurance plan shall not be required to  
6 offer coverage for nonemergency services rendered outside its  
7 network of contracted providers.

8 Sec. 5. This act becomes operative on January 1, 2008.

9 Sec. 6. Original sections 44-791, 44-792, 44-793, and  
10 44-794, Reissue Revised Statutes of Nebraska, are repealed.