

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0981.02 Christy Chase x2008

HOUSE BILL 19-1269

HOUSE SPONSORSHIP

Cutter and Sullivan, Kipp, Michaelson Jenet, Mullica, Arndt, Becker, Bird, Buentello, Caraveo, Duran, Esgar, Exum, Froelich, Galindo, Garnett, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kraft-Tharp, Landgraf, Lontine, McCluskie, McLachlan, Melton, Roberts, Singer, Sirota, Snyder, Tipper, Titone, Valdez A., Weissman

SENATE SPONSORSHIP

Ginal and Gardner, Bridges, Court, Fields, Garcia, Lee, Moreno, Pettersen, Priola, Story, Tate, Todd, Winter, Zenzinger

House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO IMPROVE BEHAVIORAL HEALTH CARE**
102 **COVERAGE PRACTICES, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill enacts the "Behavioral Health Care Coverage Modernization Act" to address issues related to coverage of behavioral, mental health, and substance use disorder services under private health insurance and the state medical assistance program (medicaid).

With regard to health insurance, the bill:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 25, 2019

SENATE
Amended 2nd Reading
April 24, 2019

HOUSE
3rd Reading Unamended
April 17, 2019

HOUSE
Amended 2nd Reading
April 16, 2019

- ! Specifies that mandatory insurance coverage for behavioral, mental health, and substance use disorders includes coverage for the prevention of, screening for, and treatment of those disorders and must comply with the federal "Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008" (MHPAEA) (**section 3** of the bill);
- ! Requires coverage for services for behavioral, mental health, and substance use disorders to continue while a claim for the coverage is under review until the carrier notifies the covered person of the claim determination (**section 3**);
- ! Requires carriers to comply with treatment limitation requirements specified in federal regulations and precludes carriers from applying treatment limitations to behavioral, mental health, and substance use disorder services that do not apply to medical and surgical benefits (**section 3**);
- ! Requires carriers to provide an adequate network of providers that are able to provide behavioral, mental health, and substance use disorder services and to establish procedures to authorize treatment by nonparticipating providers when a participating provider is not available under network adequacy requirements (**section 3**);
- ! Modifies the definition of "behavioral, mental health, and substance use disorder" to include diagnostic categories listed in the mental disorders section of the International Statistical Classification of Diseases and Related Health Problems, the Diagnostic and Statistical Manual of Mental Disorders, or the Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood (**section 3**);
- ! Updates the required coverage related to alcohol use and behavioral health screenings to reflect the current requirements of that coverage as specified in recommendations of the United States preventive services task force (**section 3**);
- ! Requires the commissioner of insurance (commissioner) to disallow a carrier's requested rate increase for failure to demonstrate compliance with the MHPAEA (**section 5**);
- ! For purposes of denials of requests for reimbursement for behavioral, mental health, or substance use disorder services, requires carriers to include specified information about the protections included in the MHPAEA, how to contact the division of insurance or the office of the ombudsman for behavioral health access to care (office)

related to possible violations of the MHPAEA, and the right to request medical necessity criteria (**section 6**);

- ! For health benefit plans issued or renewed on or after January 1, 2020, requires carriers that provide coverage for an annual physical examination as a preventive health care service to also cover an annual mental wellness checkup to the same extent the physical examination is covered (**section 8**);
- ! Requires carriers to submit an annual parity report to the commissioner (**section 9**); and
- ! Starting January 1, 2020, requires carriers that provide prescription drug benefits for the treatment of substance use disorders to provide coverage of any FDA-approved prescription medication for treating substance use disorders without prior authorization or step therapy requirements and to place all covered substance use disorder prescription medications on the lowest tier of the drug formulary, and precludes those carriers from excluding coverage for those medications and related services solely on the grounds that they were court ordered (**section 10**).

With regard to medicaid, the bill:

- ! Requires the department of health care policy and financing (department) to ensure that medicaid covers behavioral, mental health, and substance use disorder services to the extent that medicaid covers a physical illness and complies with the MHPAEA (**section 11**);
- ! Requires the statewide system of community behavioral health care in the managed care system to require managed care entities (MCEs) to provide an adequate network of providers of behavioral, mental health, and substance use disorder services and to prohibit MCEs from denying payment for medically necessary and covered treatment for a covered behavioral health disorder diagnosis or a covered substance use disorder on the basis that the covered diagnosis is not primary (**section 12**);
- ! Requires the department to make MCE annual network adequacy plans public and to examine complaints from the office regarding compliance with the requirements of the bill or the MHPAEA (**section 12**);
- ! Requires MCEs to include specified statements regarding the applicability of the MHPAEA to the managed care system in medicaid and how to contact the office regarding possible violations of the MHPAEA (**section 14**);
- ! Requires MCEs to submit specified data to the department regarding behavioral health services utilization by groups

- that experience health disparities, denial rates for behavioral health services requiring prior authorization, and behavioral health provider directories (**section 15**);
- ! Requires the department to submit an annual parity report to the specified committees of the general assembly (**section 15**); and
- ! Starting January 1, 2020, requires an MCE that provides prescription drug benefits for the treatment of substance use disorders to provide coverage of any FDA-approved prescription medication for treating substance use disorders without prior authorization or step therapy requirements and precludes those MCEs from excluding coverage for those medications and related services solely on the grounds that they were court ordered (**section 16**).

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
 3 "Behavioral Health Care Coverage Modernization Act".

4 **SECTION 2.** In Colorado Revised Statutes, 10-16-102, **add**
 5 (43.5) as follows:

6 **10-16-102. Definitions.** As used in this article 16, unless the
 7 context otherwise requires:

8 (43.5) "MHPAEA" MEANS THE FEDERAL "PAUL WELLSTONE AND
 9 PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT
 10 OF 2008", PUB.L. 110-343, AS AMENDED, AND ALL OF ITS IMPLEMENTING
 11 AND RELATED REGULATIONS.

12 **SECTION 3.** In Colorado Revised Statutes, 10-16-104, **amend**
 13 (5.5)(a)(I), (5.5)(a)(IV), (5.5)(b), (5.5)(c), and (18)(b)(I); and **add**
 14 (5.5)(a)(V) and (5.5)(d) as follows:

15 **10-16-104. Mandatory coverage provisions - definitions -**
 16 **rules. (5.5) Behavioral, mental health, and substance use disorders**
 17 **- rules. (a) (I)** Every health benefit plan subject to part 2, 3, or 4 of this

1 article 16, except those described in section 10-16-102 (32)(b), must
2 provide coverage for the PREVENTION OF, SCREENING FOR, AND treatment
3 of ~~both biologically based mental health disorders and behavioral, mental~~
4 ~~health, or~~ AND substance use disorders that is no less extensive than the
5 coverage provided for a ANY physical illness AND THAT COMPLIES WITH
6 THE REQUIREMENTS OF THE MHPAEA.

7 (IV) ~~As used in this subsection (5.5):~~

8 (A) ~~"Behavioral, mental health, or substance use disorder" means~~
9 ~~post-traumatic stress disorder, substance use disorders, dysthymia,~~
10 ~~cyclothymia, social phobia, agoraphobia with panic disorder, anorexia~~
11 ~~nervosa, bulimia nervosa, general anxiety disorder, and autism spectrum~~
12 ~~disorders, as defined in subsection (1.4)(a)(III) of this section.~~

13 (B) ~~"Biologically based mental health disorder" means~~
14 ~~schizophrenia, schizoaffective disorder, bipolar affective disorder, major~~
15 ~~depressive disorder, specific obsessive-compulsive disorder, and panic~~
16 ~~disorder~~ IN THE EVENT OF A CONCURRENT REVIEW FOR A CLAIM FOR
17 COVERAGE OF SERVICES FOR THE PREVENTION OF, SCREENING FOR, AND
18 TREATMENT OF BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE
19 DISORDERS, THE SERVICE CONTINUES TO BE A COVERED SERVICE UNTIL
20 THE CARRIER NOTIFIES THE COVERED PERSON OF THE DETERMINATION ON
21 THE CLAIM.

22 (V) A CARRIER OFFERING A HEALTH BENEFIT PLAN SUBJECT TO THE
23 REQUIREMENTS OF THIS SUBSECTION (5.5) SHALL:

24 (A) COMPLY WITH THE NONQUANTITATIVE TREATMENT
25 LIMITATION REQUIREMENTS SPECIFIED IN 45 CFR 146.136 (c)(4), OR ANY
26 SUCCESSOR REGULATION, REGARDING ANY LIMITATIONS THAT ARE NOT
27 EXPRESSED NUMERICALLY BUT OTHERWISE LIMIT THE SCOPE OR DURATION

1 OF BENEFITS FOR TREATMENT, WHICH, IN ADDITION TO THE LIMITATIONS
2 AND EXAMPLES LISTED IN 45 CFR 146.136 (c)(4)(ii) AND (c)(4)(iii), OR
3 ANY SUCCESSOR REGULATION, AND 78 FR 68246, INCLUDE THE METHODS
4 BY WHICH THE CARRIER ESTABLISHES AND MAINTAINS ITS PROVIDER
5 NETWORKS PURSUANT TO SECTION 10-16-704 AND RESPONDS TO
6 DEFICIENCIES IN THE ABILITY OF ITS NETWORKS TO PROVIDE TIMELY
7 ACCESS TO CARE;

8 (B) COMPLY WITH THE FINANCIAL REQUIREMENTS AND
9 QUANTITATIVE TREATMENT LIMITATIONS SPECIFIED IN 45 CFR 146.136
10 (c)(2) AND (c)(3), OR ANY SUCCESSOR REGULATION;

11 (C) NOT APPLY ANY NONQUANTITATIVE TREATMENT LIMITATIONS
12 TO BENEFITS FOR BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE
13 DISORDERS THAT ARE NOT APPLIED TO MEDICAL AND SURGICAL BENEFITS
14 WITHIN THE SAME CLASSIFICATION OF BENEFITS;

15 
16 (D) ESTABLISH PROCEDURES TO AUTHORIZE TREATMENT WITH A
17 NONPARTICIPATING PROVIDER IF A COVERED SERVICE IS NOT AVAILABLE
18 WITHIN ESTABLISHED TIME AND DISTANCE STANDARDS AND WITHIN A
19 REASONABLE PERIOD AFTER A SERVICE IS REQUESTED, AND WITH THE
20 SAME COINSURANCE, DEDUCTIBLE, OR COPAYMENT REQUIREMENTS AS
21 WOULD APPLY IF THE SERVICES WERE PROVIDED BY A PARTICIPATING
22 PROVIDER, AND AT NO GREATER COST TO THE COVERED PERSON THAN IF
23 THE SERVICES WERE OBTAINED AT OR FROM A PARTICIPATING PROVIDER;
24 AND

25 (E) IF A COVERED PERSON OBTAINS A COVERED SERVICE FROM A
26 NONPARTICIPATING PROVIDER BECAUSE THE COVERED SERVICE IS NOT
27 AVAILABLE WITHIN ESTABLISHED TIME AND DISTANCE STANDARDS,

1 REIMBURSE TREATMENT OR SERVICES FOR BEHAVIORAL, MENTAL HEALTH,
2 OR SUBSTANCE USE DISORDERS REQUIRED TO BE COVERED PURSUANT TO
3 THIS SUBSECTION (5.5) THAT ARE PROVIDED BY A NONPARTICIPATING
4 PROVIDER USING THE SAME METHODOLOGY THE CARRIER USES TO
5 REIMBURSE COVERED MEDICAL SERVICES PROVIDED BY
6 NONPARTICIPATING PROVIDERS AND, UPON REQUEST, PROVIDE EVIDENCE
7 OF THE METHODOLOGY TO THE COVERED PERSON OR PROVIDER.

8 (b) The commissioner may adopt rules as necessary to ensure that
9 this subsection (5.5) is implemented and administered in compliance with
10 federal law AND SHALL ADOPT RULES TO ESTABLISH REASONABLE TIME
11 PERIODS FOR VISITS WITH A PROVIDER FOR TREATMENT OF A BEHAVIORAL,
12 MENTAL HEALTH, OR SUBSTANCE USE DISORDER AFTER AN INITIAL VISIT
13 WITH A PROVIDER.

14 (c) A ~~health care service plan issued by an entity subject to part 4~~
15 ~~of this article~~ CARRIER OFFERING A MANAGED CARE PLAN THAT DOES NOT
16 COVER SERVICES PROVIDED BY AN OUT-OF-NETWORK PROVIDER may
17 provide that the benefits required by this subsection (5.5) are covered
18 benefits ~~only~~ if the services are rendered by a provider who is designated
19 by and affiliated with the ~~health maintenance organization~~ MANAGED
20 CARE PLAN ONLY IF THE SAME REQUIREMENT APPLIES FOR SERVICES FOR
21 A PHYSICAL ILLNESS.

22 (d) AS USED IN THIS SUBSECTION (5.5), "BEHAVIORAL, MENTAL
23 HEALTH, AND SUBSTANCE USE DISORDER":

24 (I) MEANS A CONDITION OR DISORDER, REGARDLESS OF ETIOLOGY,
25 THAT MAY BE THE RESULT OF A COMBINATION OF GENETIC AND
26 ENVIRONMENTAL FACTORS AND THAT FALLS UNDER ANY OF THE
27 DIAGNOSTIC CATEGORIES LISTED IN THE MENTAL DISORDERS SECTION OF

1 THE MOST RECENT VERSION OF:

2 (A) THE INTERNATIONAL STATISTICAL CLASSIFICATION OF
3 DISEASES AND RELATED HEALTH PROBLEMS;

4 (B) THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL
5 DISORDERS; OR

6 (C) THE DIAGNOSTIC CLASSIFICATION OF MENTAL HEALTH AND
7 DEVELOPMENTAL DISORDERS OF INFANCY AND EARLY CHILDHOOD; AND

8 (II) INCLUDES AUTISM SPECTRUM DISORDERS, AS DEFINED IN
9 SUBSECTION (1.4)(a)(III) OF THIS SECTION.

10 (18) **Preventive health care services.** (b) The coverage required
11 by this subsection (18) must include preventive health care services for
12 the following, in accordance with the A or B recommendations of the task
13 force for the particular preventive health care service:

14 (I) UNHEALTHY alcohol use ~~disorder screening and behavioral~~
15 ~~counseling interventions~~ for adults, DEPRESSION SCREENING FOR
16 ADOLESCENTS AND ADULTS, AND PERINATAL MATERNAL COUNSELING FOR
17 PERSONS AT RISK. THE SERVICES SPECIFIED IN THIS SECTION MAY BE
18 PROVIDED BY A primary care ~~providers~~ PROVIDER, BEHAVIORAL HEALTH
19 CARE PROVIDER, AS DEFINED IN SECTION 25-1.5-502 (1.3), OR MENTAL
20 HEALTH PROFESSIONAL LICENSED OR CERTIFIED PURSUANT TO ARTICLE 43
21 OF TITLE 12.

22 

23 **SECTION 4.** In Colorado Revised Statutes, 10-16-104.8, **amend**
24 (3) as follows:

25 **10-16-104.8. Behavioral, mental health, or substance use**
26 **disorder services coverage - court-ordered.** (3) For purposes of this
27 section, "behavioral, mental health, or substance use disorder services"

1 includes THE PREVENTION OF, SCREENING FOR, AND treatment for
2 ~~biologically based mental health disorders and~~ OF behavioral, mental
3 health, or substance use disorders as described in section 10-16-104 (5.5).

4 **SECTION 5.** In Colorado Revised Statutes, 10-16-107, **amend**
5 (3)(a)(IV) and (3)(a)(V); and **add** (3)(a)(VI) as follows:

6 **10-16-107. Rate filing regulation - benefits ratio - rules.**

7 (3) (a) The commissioner shall disapprove the requested rate increase if
8 any of the following apply:

9 (IV) The actuarial reasons and data based upon Colorado claims
10 experience and data, when available, do not justify the necessity for the
11 requested rate increase; ~~or~~

12 (V) The rate filing is incomplete; OR

13 (VI) THE RATE FILING FAILS TO DEMONSTRATE COMPLIANCE WITH
14 THE MHPAEA. THE COMMISSIONER SHALL ADOPT RULES TO ESTABLISH
15 THE PROCESS AND TIMELINE FOR CARRIERS TO DEMONSTRATE COMPLIANCE
16 WITH THE MHPAEA IN ESTABLISHING THEIR RATES.

17 **SECTION 6.** In Colorado Revised Statutes, 10-16-113, **add**
18 (3)(c) as follows:

19 **10-16-113. Procedure for denial of benefits - internal review**

20 - **rules.** (3) (c) IN ADDITION TO THE REQUIREMENTS SPECIFIED IN
21 SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION, UNLESS A DENIAL IS
22 BASED ON NONPAYMENT OF PREMIUMS, A DENIAL OF REIMBURSEMENT
23 FOR SERVICES FOR THE PREVENTION OF, SCREENING FOR, OR TREATMENT
24 OF BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE DISORDERS
25 UNDER A HEALTH BENEFIT PLAN MUST INCLUDE THE FOLLOWING, IN PLAIN
26 LANGUAGE:

27 (I) A STATEMENT EXPLAINING THAT COVERED PERSONS ARE

1 PROTECTED UNDER THE MHPAEA, WHICH PROVIDES THAT LIMITATIONS
2 PLACED ON ACCESS TO MENTAL HEALTH AND SUBSTANCE USE DISORDER
3 BENEFITS MAY BE NO GREATER THAN ANY LIMITATIONS PLACED ON ACCESS
4 TO MEDICAL AND SURGICAL BENEFITS;

5 (II) A STATEMENT PROVIDING INFORMATION ABOUT CONTACTING
6 THE DIVISION OR THE OFFICE OF THE OMBUDSMAN FOR BEHAVIORAL
7 HEALTH ACCESS TO CARE ESTABLISHED PURSUANT TO PART 3 OF ARTICLE
8 80 OF TITLE 27 IF THE COVERED PERSON BELIEVES HIS OR HER RIGHTS
9 UNDER THE MHPAEA HAVE BEEN VIOLATED; AND

10 (III) A STATEMENT SPECIFYING THAT COVERED PERSONS ARE
11 ENTITLED, UPON REQUEST TO THE CARRIER AND FREE OF CHARGE, TO A
12 COPY OF THE MEDICAL NECESSITY CRITERIA FOR ANY BEHAVIORAL,
13 MENTAL HEALTH, AND SUBSTANCE USE DISORDER BENEFIT.

14 **SECTION 7.** In Colorado Revised Statutes, 10-16-124.5, **amend**
15 (8)(b) as follows:

16 **10-16-124.5. Prior authorization form - drug benefits - rules**
17 **of commissioner - definition.** (8) As used in this section:

18 (b) "Urgent prior authorization request" means

19 ~~(A)~~ a request for prior authorization of a drug benefit that, based
20 on the reasonable opinion of the prescribing provider with knowledge of
21 the covered person's medical condition, if determined in the time allowed
22 for nonurgent prior authorization requests, could:

23 ~~(A)~~ (I) Seriously jeopardize the life or health of the covered
24 person or the ability of the covered person to regain maximum function;
25 or

26 ~~(B)~~ (II) Subject the covered person to severe pain that cannot be
27 adequately managed without the drug benefit that is the subject of the

1 prior authorization request. ~~or~~

2 ~~(H) A request for prior authorization for medication-assisted~~
3 ~~treatment for substance use disorders.~~

4 **SECTION 8.** In Colorado Revised Statutes, 10-16-139, **add** (5)
5 as follows:

6 **10-16-139. Access to care - rules. (5) Annual mental wellness**
7 **checkups.** A HEALTH BENEFIT PLAN THAT IS ISSUED OR RENEWED IN THIS
8 STATE ON OR AFTER JANUARY 1, 2020, THAT PROVIDES COVERAGE FOR AN
9 ANNUAL PHYSICAL EXAMINATION AS A PREVENTIVE HEALTH CARE SERVICE
10 PURSUANT TO SECTION 10-16-104 (18) SHALL INCLUDE COVERAGE AND
11 REIMBURSEMENT FOR BEHAVIORAL HEALTH SCREENINGS USING A
12 VALIDATED SCREENING TOOL FOR BEHAVIORAL HEALTH, WHICH COVERAGE
13 AND REIMBURSEMENT IS NO LESS EXTENSIVE THAN THE COVERAGE AND
14 REIMBURSEMENT FOR THE ANNUAL PHYSICAL EXAMINATION.

15 **SECTION 9.** In Colorado Revised Statutes, 10-16-147, **amend**
16 (1)(a) introductory portion and (2); and **add** (3) and (4) as follows:

17 **10-16-147. Parity reporting - commissioner - carriers - rules**
18 **- examination of complaints.** (1) (a) By ~~March 1, 2019~~ JUNE 1, 2020,
19 and ~~every other March 1~~ BY EACH JUNE 1 thereafter, the commissioner
20 shall submit a written report TO THE HEALTH AND INSURANCE COMMITTEE
21 AND THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE
22 HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND TO
23 THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ITS
24 SUCCESSOR COMMITTEE, and provide a presentation of the report to ~~the~~
25 ~~general assembly~~ THOSE LEGISLATIVE COMMITTEES BEFORE THE NEXT
26 REGULAR LEGISLATIVE SESSION THAT FOLLOWS SUBMITTAL OF THE
27 REPORT, that:

1 (2) ~~As used in this section, "MHPAEA" means the federal "Paul~~
2 ~~Wellstone and Pete Domenici Mental Health Parity and Addiction Equity~~
3 ~~Act of 2008", Pub.L. 110-343, as amended.~~ A CARRIER THAT OFFERS A
4 HEALTH BENEFIT PLAN THAT IS SUBJECT TO SECTION 10-16-104 (5.5)
5 SHALL SUBMIT TO THE COMMISSIONER AND MAKE AVAILABLE TO THE
6 PUBLIC, BY MARCH 1, 2020, AND BY EACH MARCH 1 THEREAFTER, A
7 REPORT THAT CONTAINS THE FOLLOWING INFORMATION FOR THE PRIOR
8 CALENDAR YEAR:

9 (a) DATA THAT DEMONSTRATES PARITY COMPLIANCE FOR ADVERSE
10 DETERMINATIONS REGARDING CLAIMS FOR BEHAVIORAL, MENTAL HEALTH,
11 OR SUBSTANCE USE DISORDER SERVICES AND INCLUDES THE TOTAL
12 NUMBER OF ADVERSE DETERMINATIONS FOR SUCH CLAIMS;

13 (b) A DESCRIPTION OF THE PROCESS USED TO DEVELOP OR SELECT:

14 (I) THE MEDICAL NECESSITY CRITERIA USED IN DETERMINING
15 BENEFITS FOR BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE
16 DISORDERS; AND

17 (II) THE MEDICAL NECESSITY CRITERIA USED IN DETERMINING
18 MEDICAL AND SURGICAL BENEFITS;

19 (c) IDENTIFICATION OF ALL NONQUANTITATIVE TREATMENT
20 LIMITATIONS THAT ARE APPLIED TO BENEFITS FOR BEHAVIORAL, MENTAL
21 HEALTH, AND SUBSTANCE USE DISORDERS AND TO MEDICAL AND SURGICAL
22 BENEFITS WITHIN EACH CLASSIFICATION OF BENEFITS; AND

23 (d) (I) THE RESULTS OF ANALYSES DEMONSTRATING THAT, FOR
24 MEDICAL NECESSITY CRITERIA DESCRIBED IN SUBSECTION (2)(b) OF THIS
25 SECTION AND FOR EACH NONQUANTITATIVE TREATMENT LIMITATION
26 IDENTIFIED IN SUBSECTION (2)(c) OF THIS SECTION, AS WRITTEN AND IN
27 OPERATION, THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR

1 OTHER FACTORS USED IN APPLYING THE MEDICAL NECESSITY CRITERIA
2 AND EACH NONQUANTITATIVE TREATMENT LIMITATION TO BENEFITS FOR
3 BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE DISORDERS WITHIN
4 EACH CLASSIFICATION OF BENEFITS ARE COMPARABLE TO, AND ARE
5 APPLIED NO MORE STRINGENTLY THAN, THE PROCESSES, STRATEGIES,
6 EVIDENTIARY STANDARDS, OR OTHER FACTORS USED IN APPLYING THE
7 MEDICAL NECESSITY CRITERIA AND EACH NONQUANTITATIVE TREATMENT
8 LIMITATION TO MEDICAL AND SURGICAL BENEFITS WITHIN THE
9 CORRESPONDING CLASSIFICATION OF BENEFITS.

10 (II) A CARRIER'S REPORT ON THE RESULTS OF THE ANALYSES
11 SPECIFIED IN THIS SUBSECTION (1)(d) MUST, AT A MINIMUM:

12 (A) IDENTIFY THE FACTORS USED TO DETERMINE WHETHER A
13 NONQUANTITATIVE TREATMENT LIMITATION WILL APPLY TO A BENEFIT,
14 INCLUDING FACTORS THAT WERE CONSIDERED BUT REJECTED;

15 (B) IDENTIFY AND DEFINE THE SPECIFIC EVIDENTIARY STANDARDS
16 USED TO DEFINE THE FACTORS AND ANY OTHER EVIDENCE RELIED ON IN
17 DESIGNING EACH NONQUANTITATIVE TREATMENT LIMITATION;

18 (C) PROVIDE THE COMPARATIVE ANALYSES, INCLUDING THE
19 RESULTS OF THE ANALYSES, PERFORMED TO DETERMINE THAT THE
20 PROCESSES AND STRATEGIES USED TO DESIGN EACH NONQUANTITATIVE
21 TREATMENT LIMITATION, AS WRITTEN, AND THE WRITTEN PROCESSES AND
22 STRATEGIES USED TO APPLY EACH NONQUANTITATIVE TREATMENT
23 LIMITATION FOR BENEFITS FOR BEHAVIORAL, MENTAL HEALTH, AND
24 SUBSTANCE USE DISORDERS ARE COMPARABLE TO, AND ARE APPLIED NO
25 MORE STRINGENTLY THAN, THE PROCESSES AND STRATEGIES USED TO
26 DESIGN AND APPLY EACH NONQUANTITATIVE TREATMENT LIMITATION, AS
27 WRITTEN, AND THE WRITTEN PROCESSES AND STRATEGIES USED TO APPLY

1 EACH NONQUANTITATIVE TREATMENT LIMITATION FOR MEDICAL AND
2 SURGICAL BENEFITS;

3 (D) PROVIDE THE COMPARATIVE ANALYSES, INCLUDING THE
4 RESULTS OF THE ANALYSES, PERFORMED TO DETERMINE THAT THE
5 PROCESSES AND STRATEGIES USED TO APPLY EACH NONQUANTITATIVE
6 TREATMENT LIMITATION, IN OPERATION, FOR BENEFITS FOR BEHAVIORAL,
7 MENTAL HEALTH, AND SUBSTANCE USE DISORDERS ARE COMPARABLE TO,
8 AND ARE APPLIED NO MORE STRINGENTLY THAN, THE PROCESSES AND
9 STRATEGIES USED TO APPLY EACH NONQUANTITATIVE TREATMENT
10 LIMITATION, IN OPERATION, FOR MEDICAL AND SURGICAL BENEFITS; AND

11 (E) DISCLOSE THE SPECIFIC FINDINGS AND CONCLUSIONS REACHED
12 BY THE CARRIER THAT THE RESULTS OF THE ANALYSES INDICATE THAT
13 EACH HEALTH BENEFIT PLAN OFFERED BY THE CARRIER COMPLIES WITH
14 SECTION 10-16-104 (5.5) AND THE MHPAEA.

15 (3) THE COMMISSIONER SHALL ADOPT RULES AS NECESSARY TO
16 IMPLEMENT THE REPORTING REQUIREMENTS OF SUBSECTION (2) OF THIS
17 SECTION, INCLUDING RULES TO SPECIFY THE FORM AND MANNER OF
18 CARRIER REPORTS.

19 (4) IF THE COMMISSIONER RECEIVES A COMPLAINT FROM THE
20 OFFICE OF THE OMBUDSMAN FOR BEHAVIORAL HEALTH ACCESS TO CARE
21 ESTABLISHED PURSUANT TO PART 3 OF ARTICLE 80 OF TITLE 27 THAT
22 RELATES TO A POSSIBLE VIOLATION OF SECTION 10-16-104 (5.5) OR THE
23 MHPAEA, THE COMMISSIONER SHALL EXAMINE THE COMPLAINT, AS
24 REQUESTED BY THE OFFICE, AND SHALL REPORT TO THE OFFICE IN A
25 TIMELY MANNER ANY ACTION TAKEN BY THE COMMISSIONER RELATED TO
26 THE COMPLAINT.

27 **SECTION 10.** In Colorado Revised Statutes, **add 10-16-148 and**

1 10-16-149 as follows:

2 **10-16-148. Medication-assisted treatment - limitations on**
3 **carriers - definition.** (1) NOTWITHSTANDING ANY PROVISION OF LAW TO
4 THE CONTRARY, BEGINNING JANUARY 1, 2020, A CARRIER THAT PROVIDES
5 PRESCRIPTION DRUG BENEFITS FOR THE TREATMENT OF SUBSTANCE USE
6 DISORDERS SHALL, FOR PRESCRIPTION MEDICATIONS THAT ARE ON THE
7 CARRIER'S FORMULARY:

8 (a) NOT IMPOSE PRIOR AUTHORIZATION REQUIREMENTS ON ANY
9 PRESCRIPTION MEDICATION APPROVED BY THE FDA FOR THE TREATMENT
10 OF SUBSTANCE USE DISORDERS;

11 (b) NOT IMPOSE ANY STEP THERAPY REQUIREMENTS AS A
12 PREREQUISITE FOR COVERAGE FOR A PRESCRIPTION MEDICATION
13 APPROVED BY THE FDA FOR THE TREATMENT OF SUBSTANCE USE
14 DISORDERS;

15 (c) PLACE AT LEAST ONE COVERED PRESCRIPTION MEDICATION
16 APPROVED BY THE FDA FOR THE TREATMENT OF SUBSTANCE USE
17 DISORDERS ON THE LOWEST TIER OF THE DRUG FORMULARY DEVELOPED
18 AND MAINTAINED BY THE CARRIER; AND

19 (d) NOT EXCLUDE COVERAGE FOR ANY PRESCRIPTION MEDICATION
20 APPROVED BY THE FDA FOR THE TREATMENT OF SUBSTANCE USE
21 DISORDERS AND ANY ASSOCIATED COUNSELING OR WRAPAROUND
22 SERVICES SOLELY ON THE GROUNDS THAT THE MEDICATIONS AND
23 SERVICES WERE COURT ORDERED.

24 (2) AS USED IN THIS SECTION, "FDA" MEANS THE FOOD AND DRUG
25 ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF HEALTH AND
26 HUMAN SERVICES.

27 **10-16-149. Commissioner report - parity effects on premiums**

1 - repeal. (1) BY DECEMBER 1, 2022, THE COMMISSIONER SHALL SUBMIT
2 A REPORT TO THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE AND
3 THE HOUSE OF REPRESENTATIVES HEALTH AND INSURANCE COMMITTEE
4 AND PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE, OR THEIR
5 SUCCESSOR COMMITTEES, REGARDING THE EFFECTS ON PREMIUMS
6 RESULTING FROM CHANGES ENACTED BY HOUSE BILL 19-1269 IN
7 REQUIRED HEALTH CARE COVERAGE FOR THE PREVENTION OF, SCREENING
8 FOR, AND TREATMENT OF BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE
9 USE DISORDERS AND NETWORK ADEQUACY REQUIREMENTS FOR PROVIDING
10 THOSE SERVICES PURSUANT TO SECTION 10-16-104 (5.5) AND (18)(b)(I)
11 AND PRESCRIPTION DRUG FORMULARY REQUIREMENTS PURSUANT TO
12 SECTION 10-16-148.

13 (2) THIS SECTION IS REPEALED, EFFECTIVE MARCH 1, 2023.

14 **SECTION 11.** In Colorado Revised Statutes, 25.5-5-103, **add** (4)
15 as follows:

16 **25.5-5-103. Mandated programs with special state provisions**

17 - rules. (4) (a) THE STATE DEPARTMENT SHALL ENSURE THAT BENEFITS
18 UNDER THE MEDICAL ASSISTANCE PROGRAM FOR BEHAVIORAL, MENTAL
19 HEALTH, AND SUBSTANCE USE DISORDER SERVICES ARE NO LESS
20 EXTENSIVE THAN BENEFITS FOR ANY PHYSICAL ILLNESS AND ARE IN
21 COMPLIANCE WITH THE MHPAEA, AS DEFINED IN SECTION 25.5-5-403
22 (5.7), INCLUDING THE QUANTITATIVE AND NONQUANTITATIVE TREATMENT
23 LIMITATION REQUIREMENTS SPECIFIED IN 42 CFR 438.910 (c). ON OR
24 AFTER JANUARY 1, 2020, IF AN MCE, AS DEFINED IN SECTION 25.5-5-403
25 (4), DENIES COVERAGE FOR A COVERED BEHAVIORAL, MENTAL HEALTH, OR
26 SUBSTANCE USE DISORDER BENEFIT OR SERVICE BASED ON DIAGNOSIS, THE
27 STATE BOARD SHALL ESTABLISH, BY RULE, A PROCEDURE TO ALLOW FOR

1 REIMBURSEMENT OF MEDICALLY NECESSARY STATE PLAN SERVICES UNDER
2 THE MEDICAL ASSISTANCE PROGRAM. THE STATE DEPARTMENT MAY USE
3 MULTIPLE PAYMENT MODALITIES TO COMPLY WITH THIS SUBSECTION (4).

4 (b) THE STATE BOARD SHALL ADOPT RULES ESTABLISHING THE
5 PROCEDURES FOR REIMBURSEMENT PURSUANT TO THIS SUBSECTION (4) BY
6 JANUARY 1, 2020.

7 **SECTION 12.** In Colorado Revised Statutes, 25.5-5-402, **amend**
8 (3)(e); and **add** (3)(g), (3)(h), (3)(i), (15), (16), and (17) as follows:

9 **25.5-5-402. Statewide managed care system - definition - rules.**

10 (3) The statewide managed care system must include a statewide system
11 of community behavioral health care that must:

12 (e) Be paid for by the state department establishing capitated rates
13 specifically for community mental health services that account for a
14 comprehensive continuum of needed services such as those provided by
15 community mental health centers as defined in section 27-66-101; and

16 (g) IN ADDITION TO NETWORK ADEQUACY REQUIREMENTS
17 DETERMINED BY THE STATE DEPARTMENT, REQUIRE EACH MCE TO OFFER
18 AN ENROLLEE AN INITIAL OR SUBSEQUENT NONURGENT CARE VISIT WITHIN
19 A REASONABLE PERIOD WHERE MEDICALLY NECESSARY AND AT
20 APPROPRIATE THERAPEUTIC INTERVALS, AS DETERMINED BY STATE BOARD
21 RULE;

22 (h) SPECIFY THAT THE DIAGNOSIS OF AN INTELLECTUAL OR
23 DEVELOPMENTAL DISABILITY, A NEUROLOGICAL OR NEUROCOGNITIVE
24 DISORDER, OR A TRAUMATIC BRAIN INJURY DOES NOT PRECLUDE AN
25 INDIVIDUAL FROM RECEIVING A COVERED BEHAVIORAL HEALTH SERVICE;
26 AND

27 (i) REQUIRE AN MCE TO COVER ALL MEDICALLY NECESSARY

1 COVERED TREATMENTS FOR COVERED BEHAVIORAL HEALTH DIAGNOSES,
2 REGARDLESS OF ANY CO-OCCURRING CONDITIONS.

3 (15) ON OR BEFORE JULY 1, 2020, THE STATE DEPARTMENT SHALL
4 INCLUDE UTILIZATION MANAGEMENT GUIDELINES FOR THE MCEs IN THE
5 STATE BOARD'S MANAGED CARE RULES.

6 (16) THE STATE DEPARTMENT SHALL PROVIDE INFORMATION ON
7 ITS WEBSITE SPECIFYING HOW THE PUBLIC MAY REQUEST THE NETWORK
8 ADEQUACY PLAN AND QUARTERLY NETWORK REPORTS FOR AN MCE. THE
9 PLAN MUST INCLUDE ACTIONS TAKEN BY THE MCE TO ENSURE THAT ALL
10 NECESSARY AND COVERED PRIMARY CARE, CARE COORDINATION, AND
11 BEHAVIORAL HEALTH SERVICES ARE PROVIDED TO ENROLLEES WITH
12 REASONABLE PROMPTNESS. SUCH ACTIONS INCLUDE, WITHOUT
13 LIMITATION:

14 (a) UTILIZING SINGLE CASE AGREEMENTS WITH OUT-OF-NETWORK
15 PROVIDERS WHEN NECESSARY; AND

16 (b) USING FINANCIAL INCENTIVES TO INCREASE NETWORK
17 PARTICIPATION.

18 (17) IF THE STATE DEPARTMENT RECEIVES A COMPLAINT FROM THE
19 OFFICE OF THE OMBUDSMAN FOR BEHAVIORAL HEALTH ACCESS TO CARE
20 ESTABLISHED PURSUANT TO PART 3 OF ARTICLE 80 OF TITLE 27 THAT
21 RELATES TO POSSIBLE VIOLATIONS OF SUBSECTION (3) OF THIS SECTION
22 OR THE MHPAEA, THE STATE DEPARTMENT SHALL EXAMINE THE
23 COMPLAINT, AS REQUESTED BY THE OFFICE, AND SHALL REPORT TO THE
24 OFFICE IN A TIMELY MANNER ANY ACTIONS TAKEN RELATED TO THE
25 COMPLAINT.

26 **SECTION 13.** In Colorado Revised Statutes, 25.5-5-403, **add**
27 (5.7) as follows:

1 **25.5-5-403. Definitions.** As used in this part 4, unless the context
2 otherwise requires:

3 (5.7) "MHPAEA" MEANS THE FEDERAL "PAUL WELLSTONE AND
4 PETE DOMENICI MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT
5 OF 2008", PUB.L. 110-343, AS AMENDED, AND ALL OF ITS IMPLEMENTING
6 AND RELATED REGULATIONS.

7 **SECTION 14.** In Colorado Revised Statutes, 25.5-5-406.1, **add**
8 (1)(t) as follows:

9 **25.5-5-406.1. Required features of statewide managed care**
10 **system. (1) General features.** All medicaid managed care programs
11 must contain the following general features, in addition to others that the
12 federal government, state department, and state board consider necessary
13 for the effective and cost-efficient operation of those programs:

14 (t) EACH MCE MUST INCLUDE THE FOLLOWING STATEMENTS
15 PROMINENTLY IN THE ENROLLEE HANDBOOK, ON THE STATE
16 DEPARTMENT'S WEBSITE, AND ON THE MCE'S ENROLLMENT WEBSITE:

17 (I) A STATEMENT INDICATING THAT THE MCE IS SUBJECT TO THE
18 MHPAEA AND THAT A DENIAL, RESTRICTION, OR WITHHOLDING OF
19 BENEFITS FOR BEHAVIORAL HEALTH SERVICES THAT ARE COVERED UNDER
20 THE MEDICAL ASSISTANCE PROGRAM COULD BE A POTENTIAL VIOLATION
21 OF THAT ACT; AND

22 (II) A STATEMENT DIRECTING THE ENROLLEE TO CONTACT THE
23 OFFICE OF THE OMBUDSMAN FOR BEHAVIORAL HEALTH ACCESS TO CARE
24 ESTABLISHED PURSUANT TO PART 3 OF ARTICLE 80 OF TITLE 27 IF THE
25 ENROLLEE WANTS FURTHER ASSISTANCE PURSUING ACTION REGARDING
26 POTENTIAL PARITY VIOLATIONS, WHICH STATEMENT MUST INCLUDE THE
27 TELEPHONE NUMBER FOR THE OFFICE AND A LINK TO THE OFFICE'S

1 WEBSITE.

2

3 **SECTION 15.** In Colorado Revised Statutes, **add 25.5-5-421 and**
4 **25.5-5-422** as follows:

5 **25.5-5-421. Parity reporting - state department - public input.**

6 (1) THE STATE DEPARTMENT SHALL REQUIRE EACH MCE CONTRACTED
7 WITH THE STATE DEPARTMENT TO DISCLOSE ALL NECESSARY INFORMATION
8 IN ORDER FOR THE STATE DEPARTMENT, BY JUNE 1, 2020, AND BY EACH
9 JUNE 1 THEREAFTER, TO SUBMIT A REPORT TO THE HEALTH AND
10 INSURANCE COMMITTEE AND THE PUBLIC HEALTH CARE AND HUMAN
11 SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR
12 SUCCESSOR COMMITTEES, AND TO THE HEALTH AND HUMAN SERVICES
13 COMMITTEE OF THE SENATE, OR ITS SUCCESSOR COMMITTEE, REGARDING
14 BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE DISORDER PARITY.
15 THE REPORT MUST CONTAIN THE FOLLOWING INFORMATION FOR THE PRIOR
16 CALENDAR YEAR:

17 (a) A DESCRIPTION OF THE PROCESS USED TO DEVELOP OR SELECT
18 THE MEDICAL NECESSITY CRITERIA FOR BEHAVIORAL, MENTAL HEALTH,
19 AND SUBSTANCE USE DISORDER BENEFITS AND THE PROCESS USED TO
20 DEVELOP OR SELECT THE MEDICAL NECESSITY CRITERIA FOR MEDICAL AND
21 SURGICAL BENEFITS;

22 (b) IDENTIFICATION OF ALL NONQUANTITATIVE TREATMENT
23 LIMITATIONS THAT ARE APPLIED TO BEHAVIORAL, MENTAL HEALTH, AND
24 SUBSTANCE USE DISORDER BENEFITS AND TO MEDICAL AND SURGICAL
25 BENEFITS WITHIN EACH CLASSIFICATION OF BENEFITS AND A STATEMENT
26 THAT THE STATE IS COMPLYING WITH 42 U.S.C. SEC. 300gg-26
27 (a)(3)(A)(ii), AS REQUIRED BY 42 U.S.C. SEC. 1396u-2 (b)(8), PROHIBITING

1 THE APPLICATION OF NONQUANTITATIVE TREATMENT LIMITATIONS TO
2 BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE DISORDER BENEFITS
3 THAT DO NOT APPLY TO MEDICAL AND SURGICAL BENEFITS WITHIN ANY
4 CLASSIFICATION OF BENEFITS;

5 (c)(I) THE RESULTS OF ANALYSES DEMONSTRATING THAT, FOR THE
6 MEDICAL NECESSITY CRITERIA DESCRIBED IN SUBSECTION (1)(a) OF THIS
7 SECTION AND EACH NONQUANTITATIVE TREATMENT LIMITATION
8 IDENTIFIED IN SUBSECTION (1)(b) OF THIS SECTION, AS WRITTEN AND IN
9 OPERATION, THE PROCESSES, STRATEGIES, EVIDENTIARY STANDARDS, OR
10 OTHER FACTORS USED IN APPLYING THE MEDICAL NECESSITY CRITERIA
11 AND EACH NONQUANTITATIVE TREATMENT LIMITATION TO BENEFITS FOR
12 BEHAVIORAL, MENTAL HEALTH, AND SUBSTANCE USE DISORDERS WITHIN
13 EACH CLASSIFICATION OF BENEFITS ARE COMPARABLE TO, AND ARE
14 APPLIED NO MORE STRINGENTLY THAN, THE PROCESSES, STRATEGIES,
15 EVIDENTIARY STANDARDS, OR OTHER FACTORS USED IN APPLYING THE
16 MEDICAL NECESSITY CRITERIA AND EACH NONQUANTITATIVE TREATMENT
17 LIMITATION TO MEDICAL AND SURGICAL BENEFITS WITHIN THE
18 CORRESPONDING CLASSIFICATION OF BENEFITS.

19 (II) A REPORT ON THE RESULTS OF THE ANALYSES SPECIFIED IN
20 THIS SUBSECTION (1)(c) MUST, AT A MINIMUM:

21 (A) IDENTIFY THE FACTORS USED TO DETERMINE THAT A
22 NONQUANTITATIVE TREATMENT LIMITATION WILL APPLY TO A BENEFIT,
23 INCLUDING FACTORS THAT WERE CONSIDERED BUT REJECTED;

24 (B) IDENTIFY AND DEFINE THE SPECIFIC EVIDENTIARY STANDARDS
25 USED TO DEFINE THE FACTORS AND ANY OTHER EVIDENCE RELIED ON IN
26 DESIGNING EACH NONQUANTITATIVE TREATMENT LIMITATION;

27 (C) PROVIDE THE COMPARATIVE ANALYSES, INCLUDING THE

1 RESULTS OF THE ANALYSES, PERFORMED TO DETERMINE THAT THE
2 PROCESSES AND STRATEGIES USED TO DESIGN EACH NONQUANTITATIVE
3 TREATMENT LIMITATION, AS WRITTEN, AND THE WRITTEN PROCESSES AND
4 STRATEGIES USED TO APPLY EACH NONQUANTITATIVE TREATMENT
5 LIMITATION FOR BENEFITS FOR BEHAVIORAL, MENTAL HEALTH, AND
6 SUBSTANCE USE DISORDERS ARE COMPARABLE TO, AND ARE APPLIED NO
7 MORE STRINGENTLY THAN, THE PROCESSES AND STRATEGIES USED TO
8 DESIGN AND APPLY EACH NONQUANTITATIVE TREATMENT LIMITATION, AS
9 WRITTEN, AND THE WRITTEN PROCESSES AND STRATEGIES USED TO APPLY
10 EACH NONQUANTITATIVE TREATMENT LIMITATION FOR MEDICAL AND
11 SURGICAL BENEFITS;

12 (D) PROVIDE THE COMPARATIVE ANALYSES, INCLUDING THE
13 RESULTS OF THE ANALYSES, PERFORMED TO DETERMINE THAT THE
14 PROCESSES AND STRATEGIES USED TO APPLY EACH NONQUANTITATIVE
15 TREATMENT LIMITATION, IN OPERATION, FOR BENEFITS FOR BEHAVIORAL,
16 MENTAL HEALTH, AND SUBSTANCE USE DISORDERS ARE COMPARABLE TO,
17 AND ARE APPLIED NO MORE STRINGENTLY THAN, THE PROCESSES AND
18 STRATEGIES USED TO APPLY EACH NONQUANTITATIVE TREATMENT
19 LIMITATION, IN OPERATION, FOR MEDICAL AND SURGICAL BENEFITS; AND

20 (E) DISCLOSE THE SPECIFIC FINDINGS AND CONCLUSIONS THAT
21 INDICATE THAT THE STATE IS IN COMPLIANCE WITH THIS SECTION AND
22 WITH THE MHPAEA.

23 (2) BY OCTOBER 1, 2019, FOR PURPOSES OF OBTAINING
24 MEANINGFUL PUBLIC INPUT DURING THE ASSESSMENT PROCESS DESCRIBED
25 IN SUBSECTION (1) OF THIS SECTION, THE STATE DEPARTMENT SHALL SEEK
26 INPUT FROM STAKEHOLDERS WHO MAY HAVE COMPETENCY IN BENEFIT
27 AND DELIVERY SYSTEMS, UTILIZATION MANAGEMENT, MANAGED CARE

1 CONTRACTING, DATA AND REPORTING, OR COMPLIANCE AND AUDITS. THE
2 STATE DEPARTMENT SHALL CONSIDER THE INPUT RECEIVED IN
3 CONDUCTING THE ANALYSES AND DEVELOPING THE REPORT PURSUANT TO
4 SUBSECTION (1) OF THIS SECTION.

5 (3) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
6 REPORTING REQUIREMENT SPECIFIED IN THIS SECTION CONTINUES
7 INDEFINITELY.

8 (4) THE STATE DEPARTMENT SHALL CONTRACT WITH AN EXTERNAL
9 QUALITY REVIEW ORGANIZATION AT LEAST ANNUALLY TO MONITOR
10 MCEs' UTILIZATION MANAGEMENT PROGRAMS AND POLICIES, INCLUDING
11 THOSE THAT GOVERN ADVERSE DETERMINATIONS, TO ENSURE COMPLIANCE
12 WITH THE MHPAEA. THE QUALITY REVIEW REPORT MUST BE READILY
13 AVAILABLE TO THE PUBLIC.

14 **25.5-5-422. Medication-assisted treatment - limitations on**
15 **MCEs - definition.** (1) AS USED IN THIS SECTION, "FDA" MEANS THE
16 FOOD AND DRUG ADMINISTRATION IN THE UNITED STATES DEPARTMENT
17 OF HEALTH AND HUMAN SERVICES.

18 (2) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
19 CONTRARY, BEGINNING JANUARY 1, 2020, EACH MCE THAT PROVIDES
20 PRESCRIPTION DRUG BENEFITS FOR THE TREATMENT OF SUBSTANCE USE
21 DISORDERS SHALL:

22 (a) NOT IMPOSE ANY PRIOR AUTHORIZATION REQUIREMENTS ON
23 ANY PRESCRIPTION MEDICATION APPROVED BY THE FDA FOR THE
24 TREATMENT OF SUBSTANCE USE DISORDERS;

25 (b) NOT IMPOSE ANY STEP THERAPY REQUIREMENTS AS A
26 PREREQUISITE TO AUTHORIZING COVERAGE FOR A PRESCRIPTION
27 MEDICATION APPROVED BY THE FDA FOR THE TREATMENT OF SUBSTANCE

1 USE DISORDERS; AND

2 (c) NOT EXCLUDE COVERAGE FOR ANY PRESCRIPTION MEDICATION
3 APPROVED BY THE FDA FOR THE TREATMENT OF SUBSTANCE USE
4 DISORDERS AND ANY ASSOCIATED COUNSELING OR WRAPAROUND
5 SERVICES SOLELY ON THE GROUNDS THAT THE MEDICATIONS AND
6 SERVICES WERE COURT ORDERED.

7 **SECTION 16. Applicability.** (1) Except as specified in
8 subsection (2) of this section, this act applies to conduct occurring on or
9 after the effective date of this act.

10 (2) Sections 3 and 4 of this act apply to health benefit plans issued
11 or renewed on or after the effective date of this act.

12 **SECTION 17. Appropriation.** (1) For the 2019-20 state fiscal
13 year, \$167,000 is appropriated to the department of health care policy and
14 financing. Of this appropriation \$113,560 is from the general fund and
15 \$53,440 is from the healthcare affordability and sustainability fee cash
16 fund created in section 25.5-4-402.4 (5)(a), C.R.S. To implement this act,
17 the department may use this appropriation as follows:

18 (a) \$84,771, which consists of \$57,644 from the general fund and
19 \$27,127 from the healthcare affordability and sustainability fee cash fund,
20 for use by the executive director's office for personal services, which
21 amount is based on an assumption that the department will require an
22 additional 3.0 FTE;

23 (b) \$8,480, which consists of \$5,766 from the general fund and
24 \$2,714 from the healthcare affordability and sustainability fee cash fund,
25 for use by the executive director's office for operating expenses; and

26 (c) \$73,749, which consists of \$50,150 from the general fund and
27 \$23,599 from the healthcare affordability and sustainability fee cash fund,

1 for use by the executive director's office for general professional services
2 and special projects.

3 (2) For the 2019-20 state fiscal year, the general assembly
4 anticipates that the department of health care policy and financing will
5 receive \$167,001 in federal funds to implement this act, which amount is
6 included for informational purposes only. The appropriation in subsection
7 (1) of this section is based on the assumption that the department will
8 receive this amount of federal funds to be used as follows:

9 (a) \$84,771 for use by the executive director's office for personal
10 services;

11 (b) \$8,479 for use by the executive director's office for operating
12 expenses; and

13 (c) \$73,751 for use by the executive director's office for general
14 professional services and special projects.

15 (3) For the 2019-20 state fiscal year, \$88,248 is appropriated to
16 the department of regulatory agencies for use by the division of insurance.
17 This appropriation is from the division of insurance cash fund created in
18 section 10-1-103 (3), C.R.S. To implement this act, the division may use
19 this appropriation as follows:

20 (a) \$82,500 for personal services, which amount is based on an
21 assumption that the division will require an additional 1.1 FTE; and

22 (b) \$5,748 for operating expenses.

23 **SECTION 18. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.