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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO INSURANCE -- COVERAGE FOR MENTAL ILLNESS AND SUBSTANCE
ABUSE

Introduced By: Senators Miller, Lawson, DiPalma, DiMario, Valverde, Archambault,
and Bell

Date Introduced: March 11, 2021

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings.

2 The general assembly finds and declares that:

3 (1) According to Mental Health America’s 2021 report, fifty thousand (50,000) Rhode
4 Islanders, or twenty-seven and nine-tenths percent (27.9%) of adults experiencing a mental illness,
5 reported that they were not able to receive the treatment they needed. Rhode Island has the highest
6 prevalence of untreated adults with mental illness of any state in New England, and has a higher
7 prevalence than the national average of twenty-three and sixth-tenths percent (23.6%).

8 (2) The Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA, or the Act)
9 and state mental health parity laws require “behavioral healthcare benefits” (benefits for mental
10 health and substance use disorders) that are covered by most health insurance plans to be treated at
11 parity with medical/surgical benefits.

12 (3) The 2010 Affordable Care Act (ACA) requires coverage of mental health and substance
13 use services as an “essential health benefit”. The ACA built on the federal Mental Health Parity
14 and Addiction Equity Act of 2008, which requires many group insurance plans that cover mental
15 health and substance use services to do so as generously as medical and surgical services.

16 (4) In the Milliman research group’s 2019 report, entitled, “Addiction and mental health
17 vs. physical health: Widening disparities in network use and provider reimbursement,” researchers
18 demonstrated that in Rhode Island patients were four and twenty-eight hundredths (4.28) times or

1 four hundred twenty-eight percent (428%) more likely to have to go out of network for a mental
2 health office visit than for a primary care visit in 2017, which is an increase from two and twenty-
3 eight hundredths (2.28) times or two hundred twenty-eight percent (228%) in 2013.

4 (5) According to the Milliman report, in Rhode Island, mental health professionals received
5 twenty-three and four-tenths percent (23.4%) less than other specialists for similar billing codes for
6 the evaluation and management of conditions in 2017.

7 (6) The 2015 Truven Health Analytics study, which was done on behalf of the State of
8 Rhode Island, found that “public financing for behavioral health care for adults and adolescents
9 dropped from one hundred ten million dollars (\$110,000,000) in 2007 to ninety-seven million
10 dollars (\$97,000,000) in 2014. State funding for substance abuse services dropped from about
11 fifteen million five hundred thousand dollars (\$15,500,000) to five million (\$5,000,000).”

12 (7) Rhode Island increased its primary care investment by nearly forty percent (40%)
13 between 2008 and 2012, which led to ninety-five percent (95%) of practice sites achieving “medical
14 home” status, a seven and two-tenths percent (7.2%) reduction in hospital admissions, a five percent
15 (5%) reduction in costs, and savings of thirty million dollars (\$30,000,000).

16 (8) An increased investment in behavioral health care services, which includes mental
17 health and substance use disorder services and treatments, is anticipated to increase access to care
18 and decrease overall costs to the healthcare system by reducing hospital and inpatient care
19 admissions much like the investment in primary care described in subsection 7.

20 (9) Therefore, the state of Rhode Island reaffirms its commitment to achieving parity and
21 hereby requires all commercial and public payers to increase their rates of reimbursement for all
22 in-network behavioral health care services other than inpatient psychiatric hospitalization by twenty
23 three and four-tenths percent (23.4%) over the next five (5) years by July 1, 2027 by a minimum
24 of a four percent (4%) increase per year.

25 SECTION 2. Chapter 27-38.2 of the General Laws entitled "Insurance Coverage for Mental
26 Illness and Substance Abuse" is hereby amended by adding thereto the following section:

27 **27-38.2-6. Reimbursement rate parity for mental health and substance use disorders.**

28 (a) Every individual or group health insurance contract, plan or policy delivered, issued for
29 delivery or renewed in this state on or after January 1, 2022, shall increase rates of reimbursement
30 for all in-network behavioral health care services other than inpatient psychiatric hospitalization by
31 twenty-three and four-tenths percent (23.4%) over the following five (5) years with a minimum
32 increase of four percent (4%) per year. The total increase of twenty-three and four-tenths percent
33 (23.4%) must be completed on or before July 1, 2027.

34 (b) Each health insurer shall collect and provide to the office of the health insurance

1 commissioner (OHIC), in a form and frequency acceptable to OHIC, information and data
2 reflecting its increases to reimbursement rates for all in-network behavioral health care services
3 other than inpatient psychiatric hospitalization as described in subsection (a) of this section.

4 (c) On or before July 1, 2023, OHIC, in collaboration with the executive office of health
5 and human services, shall issue a report to the general assembly. This report shall include
6 recommendations for an evidence-based rate increase methodology to be applied to all in-network
7 behavioral health care services other than inpatient psychiatric hospitalization in the years
8 following 2027. These rate increase methodology recommendations shall take into consideration:

9 (1) Reimbursement rates for all in-network behavioral health care services other than
10 inpatient psychiatric hospitalization in neighboring states, including Connecticut and
11 Massachusetts;

12 (2) The medical consumer price index;

13 (3) Outcome-based value metrics; and

14 (4) Tying reimbursement rates to the cost of providing in-network behavioral health care
15 services and treatments.

16 (d) OHIC shall monitor how reimbursement rate increases described in this section affect
17 patient access to behavioral health care services and treatments, including, but not limited to, any
18 change in the behavioral health care provider workforce. On or before July 1, 2023, and each July
19 1 thereafter, OHIC shall report any access and workforce changes to the general assembly in
20 writing.

21 (e) On or before July 1, 2027, OHIC shall notify the general assembly in writing when each
22 health insurer has met their rate increase obligation as described in subsection (a) of this section.

23 (f)(1) OHIC shall promulgate such rules and regulations as are necessary and proper to
24 effectuate the purpose and for the efficient administration and enforcement of this section.

25 (2) Should OHIC find that a health insurer is not in compliance with the requirements found
26 in this section, OHIC's authority shall include, but not be limited to, requiring a health insurer to
27 complete a corrective action plan.

28 SECTION 3. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human
29 Services" is hereby amended by adding thereto the following section:

30 **42-7.2-21. Reimbursement rate parity for mental health and substance use disorder.**

31 (a) Effective January 1, 2022, Rhode Island Medicaid and its contracted managed care
32 entities shall increase rates of reimbursement for all in-network behavioral health care services
33 other than inpatient psychiatric hospitalization by twenty-three and four-tenths percent (23.4%)
34 over the following five (5) years with a minimum increase of (4%) per year. The total increase of

1 twenty-three and four-tenths percent (23.4%) must be completed on or before July 1, 2027.

2 (b) Each of Rhode Island Medicaid’s contracted managed care entities shall collect and
3 provide the executive office of health and human services (EOHHS), in a form and frequency
4 acceptable to EOHHS, information and data reflecting its increases to reimbursement rates for all
5 in-network behavioral health care services other than inpatient psychiatric hospitalization
6 reimbursement rates as described in subsection (a) of this section.

7 (c) On or before July 1, 2023, EOHHS, in collaboration with the office of the health
8 insurance commissioner, shall issue a report to the general assembly. This report shall include
9 recommendations for an evidence-based rate increase methodology to be applied to all in-network
10 behavioral health care services other than inpatient psychiatric hospitalization in the years
11 following 2027. These rate increase methodology recommendations shall take into consideration:

12 (1) Reimbursement rates for all in-network behavioral health care services other than
13 inpatient psychiatric hospitalization in neighboring states, including Connecticut and
14 Massachusetts;

15 (2) The medical consumer price index;

16 (3) Outcome-based value metrics; and

17 (4) Tying reimbursement rates to the cost of providing in-network behavioral health care
18 services and treatments.

19 (d) EOHHS shall monitor how reimbursement rate increases described in this section affect
20 patient access to behavioral health care services and treatments, including, but not limited to, any
21 change in the behavioral health care provider workforce. On or before July 1, 2023, and each July
22 1 thereafter, EOHHS shall report any access and workforce changes to the general assembly in
23 writing.

24 (e) On or before July 1, 2027, EOHHS shall notify the general assembly in writing when
25 each contracted managed care entity has met their rate increase obligation as described in
26 subsection (a) of this section.

27 (f)(1) EOHHS shall promulgate such rules and regulations as are necessary and proper to
28 effectuate the purpose and for the efficient administration and enforcement of this section.

29 (2) Should EOHHS find that Rhode Island Medicaid and its contracted managed care
30 entities are not in compliance with the requirements found in this section, EOHHS’s authority shall
31 include, but not be limited to, requiring a contracted manage care entity to complete a corrective
32 action plan.

1 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would increase reimbursement rates for behavioral health providers over a five (5)
2 year period. The minimum increase per year would be four percent (4%) resulting in a total increase
3 of twenty-three and four-tenths percent (23.4%).

4 This act would take effect upon passage.

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