

2021 -- S 0591 SUBSTITUTE A

=====
LC002260/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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 each in-network behavioral health care service other than inpatient psychiatric hospitalization
31 by a minimum of twenty-three and four-tenths percent (23.4%) over the following five (5) years,
32 with a minimum increase in the first year of three and two-tenths percent (3.2%), and a minimum
33 increase of four and five-tenths percent (4.5%) each year thereafter. The total minimum increase of
34 twenty-three and four-tenths percent (23.4%) must be completed on or before July 1, 2027.

1 (b) Each health insurer shall collect and provide to the office of the health insurance
2 commissioner (OHIC), in a form and frequency acceptable to OHIC, information and data
3 reflecting its increases to reimbursement rates for each in-network behavioral health care service,
4 other than inpatient psychiatric hospitalization as described in subsection (a) of this section.

5 (c)(1) On or before July 1, 2022, OHIC, in collaboration with the executive office of health
6 and human services, shall issue a report to the general assembly. This report shall include
7 recommendations for evidence-based rate increases to be applied to in-network behavioral health
8 care services. The goal of these rate increase recommendations shall be to increase patient access
9 to behavioral health care services by promoting behavioral health provider recruitment and
10 retention.

11 (2) This report shall include a justified cost estimate to implement such rate increase
12 recommendations.

13 (d)(1) OHIC shall monitor how reimbursement rate increases described in this section
14 affect patient access to behavioral health care services, including, but not limited to, any changes
15 related to behavioral health network adequacy. On or before July 1, 2023, and each July 1 thereafter,
16 OHIC shall report any changes to behavioral health care access and network adequacy to the
17 general assembly in writing.

18 (2) "Network", as used in this section, shall have the same meaning as is defined and used
19 in chapter 18.8 of this title.

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

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

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

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

29 **42-7.2-21. Reimbursement rate parity for mental health and substance use disorder.**

30 (a) Effective January 1, 2022, Rhode Island Medicaid and its contracted managed care
31 entities shall increase rates of reimbursement for each in-network behavioral health care service,
32 other than inpatient psychiatric hospitalization, by a minimum of twenty-three and four-tenths
33 percent (23.4%) over the following five (5) years, with a minimum increase in the first year of three
34 and two-tenths percent (3.2%), and a minimum increase of four and five-tenths percent (4.5%) each

1 year thereafter. The total minimum increase of twenty-three and four-tenths percent (23.4%) must
2 be completed on or before July 1, 2027.

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

8 (c)(1) On or before July 1, 2022, EOHHS, in collaboration with the office of the health
9 insurance commissioner, shall issue a report to the general assembly. This report shall include
10 recommendations for evidence-based rate increases to be applied to each in-network behavioral
11 health care services. The goal of these rate increase recommendations shall be to increase patient
12 access to behavioral health care services by promoting behavioral health provider recruitment and
13 retention.

14 (2) This report shall include a justified cost estimate to implement such rate increase
15 recommendations.

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

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

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

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

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

=====
LC002260/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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

1 This act would increase reimbursement rates for behavioral health providers over a five (5)
2 year period. The minimum increase of twenty-three and four-tenths percent (23.4%) over the
3 following five (5) years, with a minimum increase in the first year of three and two-tenths percent
4 (3.2%), and a minimum increase of four and five-tenths percent (4.5%) each year thereafter.

5 This act would take effect upon passage.

=====
LC002260/SUB A
=====