

## HOUSE AMENDMENT 2 TO hb1525.

deleting Sections 2 through 11 as the same appear on pages 1 through 4 of the bill, and substituting therefor the following:

### "SECTION 2. Legislative findings and intent.

It is the intent of this state that insurance coverage for serious mental illnesses shall be as available and at parity with that for physical illnesses.

### SECTION 3. Definitions.

As used in this act:

(1) Commissioner means the Insurance Commissioner of the State of Arkansas.

(2) Health benefit plan means any group or blanket plan, policy or contract for health care services issued or delivered in this state by health care insurers, including indemnity and managed care plans, and including governmental plans as defined in 29 U.S.C. 1002(32), but excluding plans providing health care services to state employees or pursuant to Arkansas Constitution, Article 5, Section 32, as amended, the Workers' Compensation Law, A.C.A. §§ 11-9-101, et seq., and the Public Employees Workers Compensation Act, A.C.A. §§ 21-5-601, et seq.;

(3) Health care insurer means any insurance company, hospital and medical services corporation, or health maintenance organization issuing or delivering health benefit plans in this state and subject to any the following laws:

(A) the Arkansas Insurance Code, A.C.A. § 23-60-101, et seq.;

(B) A.C.A. § 23-75-101, et seq. pertaining to hospital and medical service corporations;

(C) A.C.A. § 23-76-101, et seq. pertaining to health maintenance organizations;

(D) any successor law of the foregoing; and

(E) any self-funded program for governmental employees.

(4) Serious mental illness refers to the following mental and developmental disorders that current medical science affirms are caused by neurobiological or physiological disorders of the brain. Examples include but are not limited to: schizophrenia, schizo-affective disorder, major depression, bipolar disorder, paranoia, autism, obsessive-compulsive disorder, and panic disorder. Serious mental illness also includes the following serious mental and emotional disorders of childhood accompanied by severe functional impairment: severe disruptive behavior disorders, post-traumatic stress disorders of childhood, and anorexia nervosa.

### SECTION 4. Discrimination prohibited.

(a) Coverage. Except as provided in Section 8, every health benefit plan shall provide medical coverage for the diagnosis and treatment of serious mental illnesses.

(b) Prohibited discrimination. A health benefit plan shall not discriminate against any person with a serious mental illness by failing to provide mental health benefits for diagnosis and treatment of the serious mental illness under the same terms and conditions as provided for covered benefits offered under the health benefit plan for the treatment of other medical illnesses or conditions. Discrimination under this act shall be prohibited in regards to any of the following:

- (1) the duration or frequency of coverage;
- (2) the dollar amount of coverage; or
- (3) deductibles, coinsurance, out of network charges, annual limits, lifetime aggregate limits imposed on covered individuals, other patient cost-sharing amounts or out-of-pocket limits.

(c) Modification for small group health benefit plans. Health care insurers providing small employer health insurance as defined by Ark. Code Ann. 23-86-201 et seq. shall be permitted to set the deductibles for serious mental illness benefits at twice the level provided for coverage of other medical illness benefits, however purchasers must be provided with the opportunity to select full parity coverage in compliance with this act in all other regards.

(d) Individual plans. Health care insurers providing individual health benefit plans must offer individual purchasers coverage for serious mental illness, which coverage shall, other than being optional for the purchaser, shall meet all the other requirements of this act.

(e) Nothing in this act shall be construed:

(1) as requiring equal coverage between treatments for serious mental illness with coverage for preventive care, or as equating required coverage of treatments for serious mental illness with required coverage for preventive care.

(2) as prohibiting a health benefit plan from:

(A) negotiating separate reimbursement rates and service delivery systems, including, but not limited to, a mental health carve-out plan;

(B) managing the provision of benefits for serious mental illness through the same methods and in the same manner used for other medical conditions, including but not limited to pre-admission screening, prior authorization of services, or other mechanisms designed to limit coverage of services for serious mental illness to those that are deemed medically necessary;

(C) Limiting covered services to those authorized by the health insurance policy, provided that such limitations are made in accordance with this act;

(D) Using separate but equal cost-sharing features for serious mental illness and other medical illness; or

(E) Using the same amount of lifetime or annual dollar limit as applicable to other medical illness.

(3) As including a Medicare or Medicaid plan or contract or any privatized risk or demonstration program for Medicare or Medicaid coverage.

SECTION 5. Medical necessity.

This act shall not be construed as prohibiting a health benefit plan from excluding from coverage for diagnosis and treatment of serious mental illnesses when the diagnosis and treatment are medically unnecessary, provided that the medical necessity determination is made in accordance with generally accepted standards of the medical profession and other applicable laws and regulations. The term medical necessity as applied to serious mental illness benefits means:

(1) reasonable and necessary for the diagnosis or treatment of a serious mental illness, or to improve or to maintain or to prevent deterioration of functioning resulting from such illness;

(2) furnished in the most appropriate and least restrictive setting in which services can be safely provided;

(3) the most appropriate level or supply of service which can safely be provided; and

(4) could not have been omitted without adversely affecting the individual's mental and/or physical or health or the quality of care rendered.

SECTION 6. Permitted provisions.

(a) Serious mental illness coverage. A health care plan may at the insurer's option provide coverage for a health service, including, but not limited to, intensive case management, community residential treatment programs, or psychosocial rehabilitation programs, which is used in the diagnosis or treatment of serious mental illnesses, but is generally not used for other injuries, illnesses, and conditions, as long as the other requirements of this act are met.

(b) Chemical dependency treatment or educational remediation provided by a health benefit plan are not subject to the terms of this act.

(c) Other coverage. A health benefit plan may provide coverage for a health service, including, but not limited to, physical rehabilitation or durable medical equipment, which generally is not used in the diagnosis or treatment of serious mental illnesses, but is used for other injuries, illnesses, and conditions, as long as the other requirements of this act are met.

SECTION 7. Applicability.

(a) General. This act shall apply to any health benefit plan that is delivered, issued for delivery, renewed, extended, or modified in this state on or after the effective date of this act. A renewed, extended, or modified health benefit plan shall include all health benefit plans in which the health care insurer has reserved the right to change the premium.

(b) Delivery. If a health benefit plan provides coverage or benefits to an Arkansas resident, the plan shall be deemed to be delivered in this state within the meaning of this act, regardless of whether the health care insurer or other entity that provides the

coverage is located within or outside of Arkansas.

(c) No shifting of liability. Nothing in this act shall prohibit a health care insurer from contracting with other persons or entities where permitted by law; however, legal liability for complying with the provisions of this act shall not be waived, modified, or shifted to another person or entity by agreement or contract. Any such efforts to waive, modify, or shift liability shall be deemed void.

SECTION 8. Exclusions.

This act shall not apply to:

(1) Dental insurance plans;

(2) Vision insurance plans;

(3) Specified-disease insurance plans; and

(4) Accidental injury insurance plans.

(5) Short-term non-renewable individual health benefit plans that expire after 6 months.

(6) Medicare Supplement plans, as subject to Section 1882 (g) (1) of the federal Social Security Act [42 U.S.C. § 1395ss].

SECTION 9. Increased Cost Exemption.

Until the year 2,000 only, this Act shall not apply with respect to a health care insurer if the application of this act to such insurer results in a yearly average increase in aggregate cost of at least 2.8 percent, exclusive of administrative costs, loss reserves, and other non-medical costs. After the year 2,000, this exemption shall no longer apply.

SECTION 10. Regulations.

The Arkansas Insurance Commission shall enforce this act and shall promulgate necessary rules and regulations for carrying out this act.

SECTION 11. Enforcement and Penalties.

(a) The commissioner shall have the power to enforce this act, including through the general legal powers granted in Ark. Code Ann. 23-61-110 and -111 and the suspension or revocation of certificates of authority, and all other appropriate enforcement powers found elsewhere in the Arkansas Insurance Code, including but not limited to cease and desist orders.

(b) In the case of any violation of the provisions of this act, if the commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order, the commissioner may institute a proceeding to obtain injunctive relief, or seeking other appropriate relief, in the Circuit Court of Pulaski County for actions of this nature.

SECTION 12. Any person adversely affected by a violation of this act may sue in a court of competent jurisdiction for injunctive relief against a health benefit plan covered by the provisions of this act and, upon prevailing, shall, in addition to injunctive relief, receive damages of not less than ten thousand dollars (\$10,000), attorney's fees,

and costs."

AND

by appropriately renumbering subsequent sections of the bill.