SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 855

92ND GENERAL ASSEMBLY

Reported from the Committee on Aging, Families, Mental and Public Health, May 10, 2004, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3284S.12C

AN ACT

To repeal sections 376.779, 376.810, 376.811, 376.826, 376.836, and 376.840, RSMo, and to enact in lieu thereof six new sections relating to insurance coverage for mental health.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 376.779, 376.810, 376.811, 376.826, 376.836, and 376.840, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 376.779, 376.810, 376.811, 376.826, 376.836, and 376.1550, to read as follows:

376.779. 1. All **[**group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not-for-profit health service corporation, all self-insured group health benefit plans, of any type or description, and all such**]** health plans or policies that are individually underwritten or provide for such coverage for specific individuals and the members of their families **[**as nongroup policies**]**, which provide for hospital treatment, shall provide coverage, while confined in a hospital or in a residential or nonresidential facility certified by the department of mental health, for treatment of alcoholism on the same basis as coverage for any other illness, except that coverage may be limited to thirty days in any policy or contract benefit period. All **[**Missouri group contracts issued or renewed, and all**]** Missouri individual contracts issued on or after **[**December 31, 1980**]** **January 1, 2005**, shall be subject to this section. Coverage required by this section shall be included in the policy or contract and payment provided as for other coverage in the same policy or contract notwithstanding any construction or relationship of interdependent contracts or plans affecting coverage and payment of reimbursement prerequisites under the policy or contract.

EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. Insurers, corporations or groups providing coverage may approve for payment or reimbursement vendors and programs providing services or treatment required by this section. Any vendor or person offering services or treatment subject to the provisions of this section and seeking approval for payment or reimbursement shall submit to the department of mental health a detailed description of the services or treatment program to be offered. The department of mental health shall make copies of such descriptions available to insurers, corporations or groups providing coverage under the provisions of this section. Each insurer, corporation or group providing coverage shall notify the vendor or person offering service or treatment as to its acceptance or rejection for payment or reimbursement; provided, however, payment or reimbursement shall be made for any service or treatment program certified by the department of mental health. Any notice of rejection shall contain a detailed statement of the reasons for rejection and the steps and procedures necessary for acceptance. Amended descriptions of services or treatment programs to be offered may be filed with the department of mental health. Any vendor or person rejected for approval of payment or reimbursement may modify their description and treatment program and submit copies of the amended description to the department of mental health and to the insurer, corporation or group which rejected the original description.

3. The department of mental health may issue rules necessary to carry out the provisions of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. All substance abuse treatment programs in Missouri receiving funding from the Missouri department of mental health must be certified by the department.

5. This section shall not apply to a supplemental policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy.

376.810. As used in sections 376.810 to 376.814, the following terms mean:

(1) "Chemical dependency", the psychological or physiological dependence upon and abuse of drugs, including alcohol, characterized by drug tolerance or withdrawal and impairment of social or occupational role functioning or both;

(2) "Community mental health center", a legal entity certified by the department of mental health or accredited by a nationally recognized organization, through which a comprehensive array of mental health services are provided to individuals;

(3) "Day program services", a structured, intensive day or evening treatment or partial hospitalization program, certified by the department of mental health or accredited by a nationally recognized organization;

(4) "Episode", a distinct course of chemical dependency treatment separated by at least thirty days without treatment;

(5) "Health insurance policy", all **[**group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not for profit health services corporation, all self-insured group health benefit plans of any type or description to the extent that regulation of such plans is not preempted by federal law, and all such**]** health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families **[**as nongroup policies**]**, which provide for hospital treatment. For the purposes of subsection 2 of section 376.811, "health insurance policy" shall also include any **[**group or individual contract**] individually underwritten coverage** issued by a health maintenance organization. The provisions of sections 376.810 to 376.814 shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency;

(6) "Licensed professional", a licensed physician specializing in the treatment of mental illness, a licensed psychologist, a licensed clinical social worker or a licensed professional counselor. Only prescription rights under this act shall apply to medical **[**physician's**] physicians** and doctors of osteopathy;

(7) "Managed care", the determination of availability of coverage under a health insurance policy through the use of clinical standards to determine the medical necessity of an admission or treatment, and the level and type of treatment, and appropriate setting for treatment, with required authorization on a prospective, concurrent or retrospective basis, sometimes involving case management;

(8) "Medical detoxification", hospital inpatient or residential medical care to ameliorate acute medical conditions associated with chemical dependency;

(9) "Nonresidential treatment program", program certified by the department of mental health involving structured, intensive treatment in a nonresidential setting;

(10) "Recognized mental illness", those conditions classified as "mental disorders" in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, but shall not include mental retardation;

(11) "Residential treatment program", program certified by the department of mental health involving residential care and structured, intensive treatment;

(12) "Social setting detoxification", a program in a supportive nonhospital setting

designed to achieve detoxification, without the use of drugs or other medical intervention, to establish a plan of treatment and provide for medical referral when necessary.

376.811. 1. Every insurance company and health services corporation doing business in this state shall offer in all health insurance policies, benefits or coverage for chemical dependency meeting the following minimum standards:

(1) Coverage for outpatient treatment through a nonresidential treatment program, or through partial- or full-day program services, of not less than twenty-six days per policy benefit period;

(2) Coverage for residential treatment program of not less than twenty-one days per policy benefit period;

(3) Coverage for medical or social setting detoxification of not less than six days per policy benefit period;

(4) The coverages set forth in this subsection may be subject to a separate lifetime frequency cap of not less than ten episodes of treatment, except that such separate lifetime frequency cap shall not apply to medical detoxification in a life-threatening situation as determined by the treating physician and subsequently documented within forty-eight hours of treatment to the reasonable satisfaction of the insurance company or health services corporation; and

(5) The coverages set forth in this subsection shall be:

(a) Subject to the same coinsurance, co-payment and deductible factors as apply to physical illness;

(b) Administered pursuant to a managed care program established by the insurance company or health services corporation; and

(c) Covered services may be delivered through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. In addition to the coverages set forth in subsection 1 of this section, every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies, benefits or coverages for recognized mental illness, excluding chemical dependency, meeting the following minimum standards:

(1) Coverage for outpatient treatment, including treatment through partial- or full-day program services, for mental health services for a recognized mental illness

rendered by a licensed professional to the same extent as any other illness;

(2) Coverage for residential treatment programs for the therapeutic care and treatment of a recognized mental illness when prescribed by a licensed professional and rendered in a psychiatric residential treatment center licensed by the department of mental health or accredited by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

(3) Coverage for inpatient hospital treatment for a recognized mental illness to the same extent as for any other illness, not to exceed ninety days per year;

(4) The coverages set forth in this subsection shall be subject to the same coinsurance, co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical illness; and

(5) The coverages set forth in this subsection may be administered pursuant to a managed care program established by the insurance company, health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

3. The offer required by sections 376.810 to 376.814 may be accepted or rejected by the **[**group or**]** individual policyholder or contract holder and, if accepted, shall fully and completely satisfy and substitute for the coverage under section 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an insurance company, health services corporation or health maintenance organization from including all or part of the coverages set forth in sections 376.810 to 376.814 as standard coverage in their policies or contracts issued in this state.

4. Every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies mental health benefits or coverage as part of the policy or as a supplement to the policy. Such mental health benefits or coverage shall include at least two sessions per year to a licensed psychiatrist, licensed psychologist, licensed professional counselor, or licensed clinical social worker acting within the scope of such license and under the following minimum standards:

(1) Coverage and benefits in this subsection shall be for the purpose of diagnosis or assessment, but not dependent upon findings; and

(2) Coverage and benefits in this subsection shall not be subject to any conditions

of preapproval, and shall be deemed reimbursable as long as the provisions of this subsection are satisfied; and

(3) Coverage and benefits in this subsection shall be subject to the same coinsurance, co-payment and deductible factors as apply to regular office visits under coverages and benefits for physical illness.

5. If the **[**group or**]** individual policyholder or contract holder rejects the offer required by this section, then the coverage shall be governed by the mental health and chemical dependency insurance act as provided in sections 376.825 to 376.835.

6. This section shall not apply to a supplemental policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy.

376.826. For the purposes of sections 376.825 to **[**376.840**] 376.836** the following terms shall mean:

(1) "Director", the director of the department of insurance;

(2) "Health insurance policy" or "policy", all **[**group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not for profit health services corporation, all self-insured group health benefit plans of any type or description to the extent that regulation of such plans is not preempted by federal law, and all such**]** health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families **[**as nongroup policies**]**, which provide for hospital treatments. The term shall also include any **[**group or individual contract**] individually underwritten coverage** issued by a health maintenance organization. The provisions of sections 376.825 to 376.840 shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency;

(3) "Insurer", an entity licensed by the department of insurance to offer a health insurance policy;

(4) "Mental illness", the following disorders contained in the International Classification of Diseases (ICD-9-CM):

(a) Schizophrenic disorders and paranoid states (295 and 297, except 297.3);

(b) Major depression, bipolar disorder, and other affective psychoses (296);

(c) Obsessive compulsive disorder, post-traumatic stress disorder and other major anxiety disorders (300.0, 300.21, 300.22, 300.23, 300.3 and 309.81);

(d) Early childhood psychoses, and other disorders first diagnosed in childhood

or adolescence (299.8, 312.8, 313.81 and 314);

(e) Alcohol and drug abuse (291, 292, 303, 304, and 305, except 305.1); and

(f) Anorexia nervosa, bulimia and other severe eating disorders (307.1, 307.51, 307.52 and 307.53);

(g) Senile organic psychotic conditions (290);

(5) "Rate", "term", or "condition", any lifetime limits, annual payment limits, episodic limits, inpatient or outpatient service limits, and out-of-pocket limits. This definition does not include deductibles, co-payments, or coinsurance prior to reaching any maximum out-of-pocket limit. Any out-of-pocket limit under a policy shall be comprehensive for coverage of mental illness and physical conditions.

376.836. 1. The provisions of sections 376.825 to **[**376.840**]** **376.836** apply to applications for coverage made on or after January 1, **[**2000**]** **2005**, and to health insurance policies issued or renewed on or after such date to residents of this state. Multiyear group policies need not comply until the expiration of their current multiyear term unless the policyholder elects to comply before that time.

2. **[**The director shall perform a study to assess the impact of the mental health and substance abuse insurance act on insurers, business interests, providers, and consumers of mental health and substance abuse treatment services. The director shall report the findings of this study to the general assembly by January 1, 2004.**]** **This section shall not apply to a supplemental policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy.**

3. The provisions of sections 376.825 to 376.836 shall not expire on January 1, 2005.

376.1550. 1. Notwithstanding any other provision of law to the contrary, each health carrier that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2005, shall provide coverage for a mental health condition, as defined in this section, and shall comply with the following provisions:

(1) A health benefit plan shall provide coverage for treatment of a mental health condition and shall not establish any rate, term, or condition that places a greater financial burden on an insured for access to treatment for a mental health condition than for access to treatment for a physical health condition. Any deductible or out-of-pocket limits required by a health

carrier or health benefit plan shall be comprehensive for coverage of all health conditions, whether mental or physical;

(2) A health benefit plan that does not otherwise provide for management of care under the plan or that does not provide for the same degree of management of care for all health conditions may provide coverage for treatment of mental health conditions through a managed care organization; provided that the managed care organization is in compliance with rules adopted by the department of insurance that assure that the system for delivery of treatment for mental health conditions does not diminish or negate the purpose of this section. The rules adopted by the director shall assure that:

(a) Timely and appropriate access to care is available;

(b) The quantity, location, and specialty distribution of health care providers is adequate; and

(c) Administrative or clinical protocols do not serve to reduce access to medically necessary treatment for any insured.

(3) Coverage for treatment for chemical dependency shall comply with sections 376.810 to 376.814.

2. As used in this section, the following terms mean:

(1) "Chemical dependency", the psychological or physiological dependence upon and abuse of drugs, including alcohol, characterized by drug tolerance or withdrawal and impairment of social or occupational role functioning or both;

(2) "Health benefit plan", the same meaning as such term is defined in section 376.1350;

(3) "Health carrier", the same meaning as such term is defined in section 376.1350;

(4) "Mental health condition", any condition or disorder defined by categories listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders except for chemical dependency;

(5) "Managed care organization", any financing mechanism or system that manages care delivery for its members or subscribers, including health maintenance organizations and any other similar health care delivery system or organization;

(6) "Rate, term, or condition", any lifetime or annual payment limits, deductibles, copayments, coinsurance, and other cost-sharing requirements, out-of-pocket limits, visit limits, and any other financial component of a

health benefit plan that affects the insured.

3. This section shall not apply to a health plan or policy that is individually underwritten or provides such coverage for specific individuals and members of their families pursuant to section 376.779, sections 376.810 to 376.814, and sections 376.825 to 376.836, a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

4. Notwithstanding any other provision of law to the contrary, all health insurance policies that cover state employees, including the Missouri consolidated health care plan, shall include coverage for mental illness. Multiyear group policies need not comply until the expiration of their current multiyear term unless the policyholder elects to comply before that time.

5. The provisions of this section shall not be violated if the insurer decides to apply different limits or exclude entirely from coverage the following:

(1) Marital, family, educational, or training services unless medically necessary and clinically appropriate;

(2) Services rendered or billed by a school or halfway house;

(3) Care that is custodial in nature;

(4) Services and supplies that are not immediately nor clinically appropriate; or

(5) Treatments that are considered experimental.

6. The director shall grant a policyholder a waiver from the provisions of this section if the policyholder demonstrates to the director by actual experience over any consecutive twenty-four-month period that compliance with this section has increased the cost of the health insurance policy by an amount that results in a two percent increase in premium costs to the policyholder. The director shall promulgate rules establishing a procedure and appropriate standards for making such a demonstration. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,

RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

[376.840. Notwithstanding the provision of subsection 1 of section 376.827, all health insurance policies which cover state employees including the Missouri consolidated health care plan shall include coverage for mental illness. Multiyear group policies need not comply until the expiration of their current multiyear term unless the policyholder elects to comply before that time.**]**

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