

A10164 Summary:

BILL NO A10164

SAME AS SAME AS UNI.

SPONSOR Rules (Cusick)

COSPNSR Cymbrowitz, Cahill, Rosenthal, Weisenberg, Ortiz, Gunther, Titone, Mosley, Peoples-Stokes, Galef, Gottfried, Fahy, Cook, Magee, Sweeney, Thiele, Barrett, Skoufis, Braunstein, O'Donnell, Rivera, Brindisi, McDonald, Otis, Hooper, Borelli, Camara, Malliotakis, Saladino

MLTSPNSR

Amd SS309, 3216, 3221, 4303, 4900, 4902, 4903 & 4904 Ins L; amd SS4409, 4900, 4902, 4903 & 4904, Pub Health L

Relates to insurance coverage for substance use disorder; requires health plans to use a health care provider who specializes in behavioral health or substance use disorder treatment to supervise and oversee the medical management decisions relating to substance abuse treatment.

A10164 Actions:

BILL NO A10164

06/17/2014 referred to insurance

06/18/2014 reference changed to ways and means

06/19/2014 reported referred to rules

06/19/2014 reported

06/19/2014 rules report cal.591

06/19/2014 substituted by s7912

S07912 AMEND= SEWARD

06/17/2014 REFERRED TO RULES

06/19/2014 ORDERED TO THIRD READING CAL.1643

06/19/2014 MESSAGE OF NECESSITY - 3 DAY MESSAGE

06/19/2014 PASSED SENATE

06/19/2014 DELIVERED TO ASSEMBLY

06/19/2014 referred to ways and means

06/19/2014 substituted for a10164

06/19/2014 ordered to third reading rules cal.591

06/19/2014 message of necessity - 3 day message

06/19/2014 passed assembly

06/19/2014 returned to senate

06/23/2014 DELIVERED TO GOVERNOR

06/23/2014 SIGNED CHAP.41

A10164 Text:

STATE OF NEW YORK

S. 7912

A. 10164

SENATE - ASSEMBLY

June 17, 2014

IN SENATE -- Introduced by Sens. SEWARD, HANNON, MARTINS, RITCHIE -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Cusick) -- (at request of the Governor) -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to requiring health insurance coverage for substance use disorder treatment services and creating a workgroup to study and make recommendations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (i) of section 3216 of the insurance law is
 2 amended by adding two new paragraphs 30 and 31 to read as follows:
 3 (30)(A) Every policy that provides hospital, major medical or similar
 4 comprehensive coverage must provide inpatient coverage for the diagnosis
 5 and treatment of substance use disorder, including detoxification and
 6 rehabilitation services. Such coverage shall not apply financial
 7 requirements or treatment limitations to inpatient substance use disor-
 8 der benefits that are more restrictive than the predominant financial
 9 requirements and treatment limitations applied to substantially all
 10 medical and surgical benefits covered by the policy. Further, such
 11 coverage shall be provided consistent with the federal Paul Wellstone
 12 and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008
 13 (29 U.S.C. § 1185a).
 14 (B) Coverage provided under this paragraph may be limited to facili-
 15 ties in New York state which are certified by the office of alcoholism
 16 and substance abuse services and, in other states, to those which are
 17 accredited by the joint commission as alcoholism, substance abuse, or

18 chemical dependence treatment programs.
 19 (C) Coverage provided under this paragraph may be subject to annual
 20 deductibles and co-insurance as deemed appropriate by the superintendent

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
 [-] is old law to be omitted.

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1 and that are consistent with those imposed on other benefits within a
 2 given policy.

3 (31) (A) Every policy that provides medical, major medical or similar
 4 comprehensive-type coverage must provide outpatient coverage for the

5 diagnosis and treatment of substance use disorder, including detoxifica-
 6 tion and rehabilitation services. Such coverage shall not apply finan-
 7 cial requirements or treatment limitations to outpatient substance use
 8 disorder benefits that are more restrictive than the predominant finan-
 9 cial requirements and treatment limitations applied to substantially all
 10 medical and surgical benefits covered by the policy. Further, such
 11 coverage shall be provided consistent with the federal Paul Wellstone
 12 and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008
 13 (29 U.S.C. § 1185a).

14 (B) Coverage under this paragraph may be limited to facilities in New
 15 York state certified by the office of alcoholism and substance abuse

16 services or licensed by such office as outpatient clinics or medically
 17 supervised ambulatory substance abuse programs and, in other states, to
 18 those which are accredited by the joint commission as alcoholism or
 19 chemical dependence substance abuse treatment programs.

20 (C) Coverage provided under this paragraph may be subject to annual
 21 deductibles and co-insurance as deemed appropriate by the superintendent
 22 and that are consistent with those imposed on other benefits within a
 23 given policy.

24 (D) A policy providing coverage for substance use disorder services
 25 pursuant to this paragraph shall provide up to twenty outpatient visits
 26 per policy or calendar year to an individual who identifies him or

27 herself as a family member of a person suffering from substance use
 28 disorder and who seeks treatment as a family member who is otherwise
 29 covered by the applicable policy pursuant to this paragraph. The cover-
 30 age required by this paragraph shall include treatment as a family
 31 member pursuant to such family member's own policy provided such family
 32 member:

33 (i) does not exceed the allowable number of family visits provided by
 34 the applicable policy pursuant to this paragraph; and

35 (ii) is otherwise entitled to coverage pursuant to this paragraph and
 36 such family member's applicable policy.

37 § 2. Paragraphs 6 and 7 of subsection (1) of section 3221 of the
 38 insurance law, paragraph 6 as amended by chapter 558 of the laws of 1999

39 and paragraph 7 as amended by chapter 565 of the laws of 2000, are
 40 amended to read as follows:

41 ~~(6) (A) Every [insurer delivering a group or school blanket policy or~~
 42 ~~issuing a group or school blanket policy for delivery, in this state,~~
 43 ~~which] policy that provides [coverage for inpatient hospital care]~~
 44 ~~hospital, major medical or similar comprehensive coverage must [make~~
 45 ~~available and, if requested by the policyholder,] provide inpatient~~
 46 ~~coverage for the diagnosis and treatment of [chemical abuse and chemical~~
 47 ~~dependence, however defined in such policy; provided, however, that the~~
 48 ~~term chemical abuse shall mean and include alcohol and substance abuse~~

49 ~~and chemical dependence shall mean and include alcoholism and substance~~
 50 ~~dependence, however defined in such policy. Written notice of the avail-~~
 51 ~~ability of such coverage shall be delivered to the policyholder prior to~~
 52 ~~inception of such group policy and annually thereafter, except that this~~
 53 ~~notice shall not be required where a policy covers two hundred or more~~
 54 ~~employees or where the benefit structure was the subject of collective~~
 55 ~~bargaining affecting persons who are employed in more than one state.~~

56 ~~(B) Such coverage shall be at least equal to the following:~~

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1 ~~(i) with respect to benefits for detoxification as a consequence of~~

2 ~~chemical dependence, inpatient benefits in a hospital or a detoxifica-~~
 3 ~~tion facility may not be limited to less than seven days of active~~
 4 ~~treatment in any calendar year; and~~

5 ~~(ii) with respect to benefits for rehabilitation services, such bene-~~
 6 ~~fits may not be limited to less than thirty days of inpatient care in~~
 7 ~~any calendar year.] substance use disorder, including detoxification and~~
 8 ~~rehabilitation services. Such coverage shall not apply financial~~
 9 ~~requirements or treatment limitations to inpatient substance use disor-~~
 10 ~~der benefits that are more restrictive than the predominant financial~~
 11 ~~requirements and treatment limitations applied to substantially all~~

12 ~~medical and surgical benefits covered by the policy. Further, such~~
 13 ~~coverage shall be provided consistent with the federal Paul Wellstone~~
 14 ~~and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008~~
 15 ~~(29 U.S.C. § 1185a).~~

16 ~~[(C) Such coverage]~~ (B) Coverage provided under this paragraph may be
 17 limited to facilities in New York state which are certified by the
 18 office of alcoholism and substance abuse services and, in other states,
 19 to those which are accredited by the joint commission ~~[on accreditation~~
 20 ~~of hospitals]~~ as alcoholism, substance abuse or chemical dependence
 21 treatment programs.

22 ~~[(D) Such coverage shall be made available at the inception of all new~~

~~policies and with respect to all other policies at any anniversary date of the policy subject to evidence of insurability.~~

~~(E) Such coverage~~ (C) Coverage provided under this paragraph may be subject to annual deductibles and co-insurance as ~~may be~~ deemed appropriate by the superintendent and ~~that~~ are consistent with those imposed on other benefits within a given policy. ~~[Further, each insurer shall report to the superintendent each year the number of contract holders to whom it has issued policies for the inpatient treatment of chemical dependence, and the approximate number of persons covered by such policies.~~

~~(F) Such coverage shall not replace, restrict or eliminate existing coverage provided by the policy.]~~

(7) (A) ~~Every [insurer delivering a group or school blanket policy or issuing a group or school blanket policy for delivery in this state which] policy that provides [coverage for inpatient hospital care] medical, major medical or similar comprehensive-type coverage must provide outpatient coverage for [at least sixty outpatient visits in any calendar year for] the diagnosis and treatment of [chemical dependence of which up to twenty may be for family members, except that this provision shall not apply to a policy which covers persons employed in more than one state or the benefit structure of which was the subject of~~

~~collective bargaining affecting persons who are employed in more than one state.] substance use disorder, including detoxification and rehabilitation services. Such coverage shall not apply financial requirements or treatment limitations to outpatient substance use disorder benefits that are more restrictive than the predominant financial requirements and treatment limitations applied to substantially all medical and surgical benefits covered by the policy. Further, such coverage shall be provided consistent with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. § 1185a).~~

~~[Such coverage]~~ (B) Coverage under this paragraph may be limited to facilities in New York state certified by the office of alcoholism and substance abuse services or licensed by such office as outpatient clinics. 7912 4 A. 10164

ics or medically supervised ambulatory substance abuse programs and, in other states, to those which are accredited by the joint commission ~~[on accreditation of hospitals]~~ as alcoholism or chemical dependence treatment programs.

~~[Such coverage]~~ (C) Coverage provided under this paragraph may be subject to annual deductibles and co-insurance as ~~may be~~ deemed appropriate by the superintendent and ~~that~~ are consistent with those imposed

on other benefits within a given policy. ~~[Such coverage shall not replace, restrict, or eliminate existing coverage provided by the policy. Except as otherwise provided in the applicable policy or contract, no insurer delivering a group or school blanket policy or issuing a group or school blanket policy providing coverage for alcoholism or substance abuse services pursuant to this section shall deny coverage to a family member]~~

(D) A policy providing coverage for substance use disorder services pursuant to this paragraph shall provide up to twenty outpatient visits per policy or calendar year to an individual who identifies ~~[himself]~~

~~him or herself~~ as a family member of a person suffering from ~~[the disease of alcoholism, substance abuse or chemical dependency]~~ substance use disorder and who seeks treatment as a family member who is otherwise covered by the applicable policy ~~[or contract]~~ pursuant to this ~~[section]~~ paragraph. The coverage required by this paragraph shall include treatment as a family member pursuant to such family ~~[members']~~ member's own policy ~~[or contract]~~ provided such family member:

(i) does not exceed the allowable number of family visits provided by the applicable policy ~~[or contract]~~ pursuant to this ~~[section]~~ paragraph; and

(ii) is otherwise entitled to coverage pursuant to this ~~[section]~~ paragraph and such family ~~[members']~~ member's applicable policy ~~[or contract]~~.

§ 3. Subsections (k) and (l) of section 4303 of the insurance law, subsection (k) as amended by chapter 558 of the laws of 1999 and subsection (l) as amended by chapter 565 of the laws of 2000, are amended to read as follows:

(k) ~~[A hospital service corporation or a health service corporation which] (1) Every contract that provides [group, group remittance or school blanket coverage for inpatient hospital care] hospital, major medical or similar comprehensive coverage must [make available and if~~

~~requested by the contract holder] provide inpatient coverage for the diagnosis and treatment of [chemical abuse and chemical dependence, however defined in such policy, provided, however, that the term chemical abuse shall mean and include alcohol and substance abuse and chemical dependence shall mean and include alcoholism and substance dependence, however defined in such policy, except that this provision shall not apply to a policy which covers persons employed in more than one state or the benefit structure of which was the subject of collective bargaining affecting persons who are employed in more than one state. Such coverage shall be at least equal to the following: (1) with respect~~

~~to benefits for detoxification as a consequence of chemical dependence, inpatient benefits for care in a hospital or detoxification facility may not be limited to less than seven days of active treatment in any calendar year; and (2) with respect to benefits for inpatient rehabilitation services, such benefits may not be limited to less than thirty days of inpatient rehabilitation in a hospital-based or free-standing chemical~~

~~dependence facility in any calendar year]~~ substance use disorder,
 including detoxification and rehabilitation services. Such coverage
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1 shall not apply financial requirements or treatment limitations to inpa-
 2 tient substance use disorder benefits that are more restrictive than the
 3 predominant financial requirements and treatment limitations applied to
 4 substantially all medical and surgical benefits covered by the contract.
 5 Further, such coverage shall be provided consistent with the federal
 6 Paul Wellstone and Pete Domenici Mental Health Parity and Addiction
 7 Equity Act of 2008 (29 U.S.C. § 1185a).
 8 [Such coverage] (2) Coverage provided under this subsection may be
 9 limited to facilities in New York state which are certified by the
 10 office of alcoholism and substance abuse services and, in other states,
 11 to those which are accredited by the joint commission ~~[on accreditation~~

12 ~~of hospitals]~~ as alcoholism, substance abuse, or chemical dependence
 13 treatment programs. ~~[Such coverage shall be made available at the incep-~~
 14 ~~tion of all new policies and with respect to policies issued before the~~
 15 ~~effective date of this subsection at the first annual anniversary date~~
 16 ~~thereafter, without evidence of insurability and at any subsequent annu-~~
 17 ~~al anniversary date subject to evidence of insurability.~~

18 Such coverage] (3) Coverage provided under this subsection may be
 19 subject to annual deductibles and co-insurance as ~~[may be]~~ deemed appro-
 20 priate by the superintendent and that are consistent with those imposed
 21 on other benefits within a given ~~[policy]~~ contract. ~~[Further, each~~

22 ~~hospital service corporation or health service corporation shall report~~
 23 ~~to the superintendent each year the number of contract holders to whom~~
 24 ~~it has issued policies for the inpatient treatment of chemical depend-~~
 25 ~~ence, and the approximate number of persons covered by such policies.~~
 26 ~~Such coverage shall not replace, restrict or eliminate existing coverage~~
 27 ~~provided by the policy. Written notice of the availability of such~~
 28 ~~coverage shall be delivered to the group remitting agent or group~~
 29 ~~contract holder prior to inception of such contract and annually there-~~
 30 ~~after, except that this notice shall not be required where a policy~~
 31 ~~covers two hundred or more employees or where the benefit structure was~~

32 ~~the subject of collective bargaining affecting persons who are employed~~
 33 ~~in more than one state.]~~

34 (1) ~~[A hospital service corporation or a health service corporation~~
 35 ~~which] (i) Every contract that~~ provides ~~[group, group remittance or~~
 36 ~~school blanket coverage for inpatient hospital care] medical, major~~
 37 ~~medical or similar comprehensive-type coverage~~ must provide outpatient
 38 coverage for ~~[at least sixty outpatient visits in any calendar year for]~~
 39 the diagnosis and treatment of ~~[chemical dependence of which up to twen-~~
 40 ~~ty may be for family members, except that this provision shall not apply~~
 41 ~~to a contract issued pursuant to section four thousand three hundred~~

42 ~~five of this article which covers persons employed in more than one~~
 43 ~~state or the benefit structure of which was the subject of collective~~
 44 ~~bargaining affecting persons who are employed in more than one state.]~~
 45 substance use disorder, including detoxification and rehabilitation
 46 services. Such coverage shall not apply financial requirements or
 47 treatment limitations to outpatient substance use disorder benefits that
 48 are more restrictive than the predominant financial requirements and
 49 treatment limitations applied to substantially all medical and surgical
 50 benefits covered by the contract. Further, such coverage shall be
 51 provided consistent with the federal Paul Wellstone and Pete Domenici

52 Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. §
 53 1185a).

54 [Such coverage] (2) Coverage under this subsection may be limited to
 55 facilities in New York state certified by the office of alcoholism and
 56 substance abuse services or licensed by such office as outpatient clin-
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1 ics or medically supervised ambulatory substance abuse programs and, in
 2 other states, to those which are accredited by the joint commission ~~[on~~
 3 ~~accreditation of hospitals]~~ as alcoholism or chemical dependence
 4 substance abuse treatment programs.

5 [Such coverage] (3) Coverage provided under this subsection may be

6 subject to annual deductibles and co-insurance as ~~[may be]~~ deemed appro-
 7 priate by the superintendent and that are consistent with those imposed
 8 on other benefits within a given ~~[policy]~~ contract. ~~[Such coverage~~
 9 ~~shall not replace, restrict or eliminate existing coverage provided by~~
 10 ~~the policy. Except as otherwise provided in the applicable policy or~~
 11 ~~contract, no hospital service corporation or health service corporation~~
 12 ~~providing coverage for alcoholism or substance abuse services pursuant~~
 13 ~~to this section shall deny coverage to a family member]~~

14 (4) A contract providing coverage for substance use disorder services
 15 pursuant to this subsection shall provide up to twenty outpatient visits

16 per contract or calendar year to an individual who identifies ~~[themselves]~~
 17 him or herself as a family member of a person suffering from ~~[the~~
 18 ~~disease of alcoholism, substance abuse or chemical dependency]~~ substance
 19 use disorder and who seeks treatment as a family member who is otherwise
 20 covered by the applicable ~~[policy or]~~ contract pursuant to this
 21 ~~[section]~~ subsection. The coverage required by this subsection shall
 22 include treatment as a family member pursuant to such family ~~[members']~~
 23 member's own [policy or] contract provided such family member:
 24 ~~[A)]~~ (A) does not exceed the allowable number of family visits

25 provided by the applicable ~~[policy or]~~ contract pursuant to this
 26 ~~[section]~~ subsection; and
 27 ~~[B)]~~ (B) is otherwise entitled to coverage pursuant to this

27 ~~1777~~ 101 is otherwise entitled to coverage pursuant to this
 28 ~~section~~ subsection and such family ~~members~~ member's applicable
 29 ~~policy on~~ contract.

30 § 3-a. Item (ii) of subparagraph (B) of paragraph 1 of subsection (b)
 31 of section 4900 of the insurance law, as amended by chapter 586 of the
 32 laws of 1998, is amended and a new subparagraph (C) is added to read as
 33 follows:

34 (ii) is in the same profession and same or similar specialty as the
 35 health care provider who typically manages the medical condition or
 36 disease or provides the health care service or treatment under review;

37 ~~end~~ or
 38 (C) for purposes of a determination involving substance use disorder
 39 treatment:

40 (i) a physician who possesses a current and valid non-restricted
 41 license to practice medicine and who specializes in behavioral health
 42 and has experience in the delivery of substance use disorder courses of
 43 treatment; or

44 (ii) a health care professional other than a licensed physician who
 45 specializes in behavioral health and has experience in the delivery of
 46 substance use disorder courses of treatment and, where applicable,
 47 possesses a current and valid non-restricted license, certificate or
 48 registration or, where no provision for a license, certificate or regis-

49 tration exists, is credentialed by the national accrediting body appro-
 50 priate to the profession; and

51 § 4. Subsection (a) of section 4902 of the insurance law is amended by
 52 adding a new paragraph 9 to read as follows:

53 (9) When conducting utilization review for purposes of determining
 54 health care coverage for substance use disorder treatment, a utilization
 55 review agent shall utilize recognized evidence-based and peer reviewed
 56 clinical review criteria that is appropriate to the age of the patient
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1 and is deemed appropriate and approved for such use by the commissioner
 2 of the office of alcoholism and substance abuse services in consultation

3 with the commissioner of health and the superintendent.

4 The office of alcoholism and substance abuse services in consultation
 5 with the commissioner of health and the superintendent shall approve a
 6 recognized evidence-based and peer reviewed clinical review criteria, in
 7 addition to any other approved evidence-based and peer reviewed clinical
 8 review criteria.

9 § 5. Subsection (c) of section 4903 of the insurance law, as amended
 10 by chapter 237 of the laws of 2009, is amended to read as follows:

11 (c) (1) A utilization review agent shall make a determination involv-
 12 ing continued or extended health care services, additional services for
 13 an insured undergoing a course of continued treatment prescribed by a

14 health care provider, or requests for inpatient substance use disorder
 15 treatment, or home health care services following an inpatient hospital
 16 admission, and shall provide notice of such determination to the insured
 17 or the insured's designee, which may be satisfied by notice to the
 18 insured's health care provider, by telephone and in writing within one
 19 business day of receipt of the necessary information except, with
 20 respect to home health care services following an inpatient hospital
 21 admission, within seventy-two hours of receipt of the necessary informa-
 22 tion when the day subsequent to the request falls on a weekend or holi-
 23 day and except, with respect to inpatient substance use disorder treat-
 24 ment, within twenty-four hours of receipt of the request for services

25 when the request is submitted at least twenty-four hours prior to
 26 discharge from an inpatient admission. Notification of continued or
 27 extended services shall include the number of extended services
 28 approved, the new total of approved services, the date of onset of
 29 services and the next review date.

30 (2) Provided that a request for home health care services and all
 31 necessary information is submitted to the utilization review agent prior
 32 to discharge from an inpatient hospital admission pursuant to this
 33 subsection, a utilization review agent shall not deny, on the basis of
 34 medical necessity or lack of prior authorization, coverage for home
 35 health care services while a determination by the utilization review
 36 agent is pending.

37 (3) Provided that a request for inpatient treatment for substance use
 38 disorder is submitted to the utilization review agent at least twenty-
 39 four hours prior to discharge from an inpatient admission pursuant to
 40 this subsection, a utilization review agent shall not deny, on the basis
 41 of medical necessity or lack of prior authorization, coverage for the
 42 inpatient substance use disorder treatment while a determination by the
 43 utilization review agent is pending.

44 § 6. Subsection (b) of section 4904 of the insurance law, as amended
 45 by chapter 237 of the laws of 2009, is amended to read as follows:

46 (b) A utilization review agent shall establish an expedited appeal
 47 process for appeal of an adverse determination involving (1) continued

48 or extended health care services, procedures or treatments or additional
 49 services for an insured undergoing a course of continued treatment
 50 prescribed by a health care provider or home health care services
 51 following discharge from an inpatient hospital admission pursuant to
 52 subsection (c) of section four thousand nine hundred three of this arti-
 53 cle or (2) an adverse determination in which the health care provider
 54 believes an immediate appeal is warranted except any retrospective
 55 determination. Such process shall include mechanisms which facilitate
 56 resolution of the appeal including but not limited to the sharing of
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1 information from the insured's health care provider and the utilization

2 review agent by telephonic means or by facsimile. The utilization review
 3 agent shall provide reasonable access to its clinical peer reviewer
 4 within one business day of receiving notice of the taking of an expedited appeal. Expedited appeals shall be determined within two business
 5 days of receipt of necessary information to conduct such appeal except,
 6 with respect to inpatient substance use disorder treatment provided
 7 pursuant to paragraph three of subsection (c) of section four thousand
 8 nine hundred three of this article, expedited appeals shall be deter-
 9 mined within twenty-four hours of receipt of such appeal. Expedited
 10 appeals which do not result in a resolution satisfactory to the appeal-
 11 ing party may be further appealed through the standard appeal process,

13 or through the external appeal process pursuant to section four thousand
 14 nine hundred fourteen of this article as applicable. Provided that the
 15 insured or the insured's health care provider files an expedited inter-
 16 nal and external appeal within twenty-four hours from receipt of an
 17 adverse determination for inpatient substance use disorder treatment for
 18 which coverage was provided while the initial utilization review deter-
 19 mination was pending pursuant to paragraph three of subsection (c) of
 20 section four thousand nine hundred three of this article, a utilization
 21 review agent shall not deny on the basis of medical necessity or lack of
 22 prior authorization such substance use disorder treatment while a deter-

23 mination by the utilization review agent or external appeal agent is
 24 pending.

25 § 6-a. Item (B) of subparagraph (i) of paragraph (a) of subdivision 2
 26 of section 4900 of the public health law, as amended by chapter 586 of
 27 the laws of 1998, is amended and a new subparagraph (iii) is added to
 28 read as follows:

29 (B) is in the same profession and same or similar specialty as the
 30 health care provider who typically manages the medical condition or
 31 disease or provides the health care service or treatment under review;

32 ~~and~~ or
 33 (iii) for purposes of a determination involving substance use disorder
 34 treatment:

35 (A) a physician who possesses a current and valid non-restricted
 36 license to practice medicine and who specializes in behavioral health
 37 and has experience in the delivery of substance use disorder courses of
 38 treatment; or

39 (B) a health care professional other than a licensed physician who
 40 specializes in behavioral health and has experience in the delivery of
 41 substance use disorder courses of treatment and, where applicable,
 42 possesses a current and valid non-restricted license, certificate or
 43 registration or, where no provision for a license, certificate or regis-
 44 tration exists, is credentialed by the national accrediting body appro-
 45 priate to the profession; and

46 § 7. Subdivision 1 of section 4902 of the public health law is amended
 47 by adding a new paragraph (i) to read as follows:

48 (i) When conducting utilization review for purposes of determining
 49 health care coverage for substance use disorder treatment, a utilization
 50 review agent shall utilize recognized evidence-based and peer reviewed
 51 clinical review criteria that is appropriate to the age of the patient
 52 and is deemed appropriate and approved for such use by the commissioner
 53 of the office of alcoholism and substance abuse services in consultation
 54 with the commissioner and the superintendent of financial services.

55 The office of alcoholism and substance abuse services in consultation
 56 with the commissioner and the superintendent of financial services shall
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1 approve a recognized evidence-based and peer reviewed clinical review
 2 criteria, in addition to any other approved evidence-based and peer
 3 reviewed clinical review criteria.

4 § 8. Subdivision 3 of section 4903 of the public health law, as
 5 amended by chapter 237 of the laws of 2009, is amended to read as
 6 follows:

7 3. (a) A utilization review agent shall make a determination involving
 8 continued or extended health care services, additional services for an
 9 enrollee undergoing a course of continued treatment prescribed by a
 10 health care provider, or requests for inpatient substance use disorder
 11 treatment, or home health care services following an inpatient hospital
 12 admission, and shall provide notice of such determination to the enrol-

13 lee or the enrollee's designee, which may be satisfied by notice to the
 14 enrollee's health care provider, by telephone and in writing within one
 15 business day of receipt of the necessary information except, with
 16 respect to home health care services following an inpatient hospital
 17 admission, within seventy-two hours of receipt of the necessary informa-
 18 tion when the day subsequent to the request falls on a weekend or holi-
 19 day and except, with respect to inpatient substance use disorder treat-
 20 ment, within twenty-four hours of receipt of the request for services
 21 when the request is submitted at least twenty-four hours prior to
 22 discharge from an inpatient admission. Notification of continued or
 23 extended services shall include the number of extended services

24 approved, the new total of approved services, the date of onset of
 25 services and the next review date.

26 (b) Provided that a request for home health care services and all
 27 necessary information is submitted to the utilization review agent prior
 28 to discharge from an inpatient hospital admission pursuant to this
 29 subdivision, a utilization review agent shall not deny, on the basis of
 30 medical necessity or lack of prior authorization, coverage for home
 31 health care services while a determination by the utilization review
 32 agent is pending.

33 (c) Provided that a request for inpatient treatment for substance use

34 disorder is submitted to the utilization review agent at least twenty-
 35 four hours prior to discharge from an inpatient admission pursuant to

36 this subdivision, a utilization review agent shall not deny, on the
 37 basis of medical necessity or lack of prior authorization, coverage for
 38 the inpatient substance use disorder treatment while a determination by
 39 the utilization review agent is pending.

40 § 9. Subdivision 2 of section 4904 of the public health law, as
 41 amended by chapter 237 of the laws of 2009, is amended to read as
 42 follows:

43 2. A utilization review agent shall establish an expedited appeal
 44 process for appeal of an adverse determination involving:

45 (a) continued or extended health care services, procedures or treat-
 46 ments or additional services for an enrollee undergoing a course of
 47 continued treatment prescribed by a health care provider home health

48 care services following discharge from an inpatient hospital admission
 49 pursuant to subdivision three of section forty-nine hundred three of
 50 this article; or

51 (b) an adverse determination in which the health care provider
 52 believes an immediate appeal is warranted except any retrospective
 53 determination. Such process shall include mechanisms which facilitate
 54 resolution of the appeal including but not limited to the sharing of
 55 information from the enrollee's health care provider and the utilization
 56 review agent by telephonic means or by facsimile. The utilization review
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1 agent shall provide reasonable access to its clinical peer reviewer
 2 within one business day of receiving notice of the taking of an expe-

3 dited appeal. Expedited appeals shall be determined within two business
 4 days of receipt of necessary information to conduct such appeal except,
 5 with respect to inpatient substance use disorder treatment provided
 6 pursuant to paragraph (c) of subdivision 3 of section four thousand nine
 7 hundred three of this article, expedited appeals shall be determined
 8 within twenty-four hours of receipt of such appeal. Expedited appeals
 9 which do not result in a resolution satisfactory to the appealing party
 10 may be further appealed through the standard appeal process, or through
 11 the external appeal process pursuant to section forty-nine hundred four-
 12 teen of this article as applicable. Provided that the enrollee or the
 13 enrollee's health care provider files an expedited internal and external

14 appeal within twenty-four hours from receipt of an adverse determination
 15 for inpatient substance use disorder treatment for which coverage was
 16 provided while the initial utilization review determination was pending
 17 pursuant to paragraph (c) of subdivision 3 of section four thousand nine
 18 hundred three of this article, a utilization review agent shall not deny
 19 on the basis of medical necessity or lack of prior authorization such
 20 substance use disorder treatment while a determination by the utiliza-
 21 tion review agent or external appeal agent is pending.

22 § 10. Section 309 of the insurance law is amended by adding a new
 23 subsection (c) to read as follows:

24 (c) As part of an examination, the superintendent shall review deter-

25 minations of coverage for substance use disorder treatment and shall
 26 ensure that such determinations are issued in compliance with sections
 27 three thousand two hundred sixteen, three thousand two hundred twenty-
 28 one, four thousand three hundred three, and title one of article forty-
 29 nine of this chapter.

30 § 10-a. Subdivision 2 of section 4409 of the public health law, as
 31 amended by chapter 805 of the laws of 1984, is amended to read as
 32 follows:

33 2. The superintendent shall examine not less than once every three
 34 years into the financial affairs of each health maintenance organiza-
 35 tion, and transmit his findings to the commissioner. In connection with
 36 any such examination, the superintendent shall have convenient access at

37 all reasonable hours to all books, records, files and other documents
 38 relating to the affairs of such organization, which are relevant to the
 39 examination. The superintendent may exercise the powers set forth in
 40 sections three hundred four, three hundred five, three hundred six and
 41 three hundred ten of the insurance law in connection with such examina-
 42 tions, and may also require special reports from such health maintenance
 43 organizations as specified in section three hundred eight of the insur-
 44 ance law. As part of an examination, the superintendent shall review
 45 determinations of coverage for substance use disorder treatment and
 46 shall ensure that such determinations are issued in compliance with
 47 section four thousand three hundred three of the insurance law and title

48 one of article forty-nine of this chapter.

49 § 11. 1. Within thirty days of the effective date of this act, the
 50 commissioner of the office of alcoholism and substance abuse services,
 51 superintendent of the department of financial services, and the commis-
 52 sioner of health, shall jointly convene a workgroup to study and make
 53 recommendations on improving access to and availability of substance use
 54 disorder treatment services in the state. The workgroup shall be
 55 co-chaired by such commissioners and superintendent, and shall also
 56 include, but not be limited to, representatives of health care provid-
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1 ers, insurers, additional professionals, individuals and families who
 2 have been affected by addiction. The workgroup shall include, but not be
 3 limited to, a review of the following:
 4 a. Identifying barriers to obtaining necessary substance use disorder
 5 treatment services for across the state;
 6 b. Recommendations for increasing access to and availability of
 7 substance use disorder treatment services in the state, including under-

8 served areas of the state;
9 c. Identifying best clinical practices for substance use disorder
10 treatment services;
11 d. A review of current insurance coverage requirements and recommenda-
12 tions for improving insurance coverage for substance use disorder treat-
13 ment;
14 e. Recommendations for improving state agency communication and
15 collaboration relating to substance use disorder treatment services in
16 the state;

17 f. Resources for affected individuals and families who are having
18 difficulties obtaining necessary substance use disorder treatment
19 services; and
20 g. Methods for developing quality standards to measure the performance
21 of substance use disorder treatment facilities in the state.
22 2. The workgroup shall submit a report of its findings and recommenda-
23 tions to the governor, the temporary president of the senate, the speak-
24 er of the assembly, the chairs of the senate and assembly insurance
25 committees, and the chairs of the senate and assembly health committees
26 no later than December 31, 2015.
27 § 12. This act shall take effect immediately; provided, however that
28 sections one, two, three, three-a, four, five, six, six-a, seven, eight
29 and nine of this act shall take effect April 1, 2015 and shall apply to

30 policies and contracts issued, renewed, modified, altered or amended on
31 and after such date.