

CLIENT ALERTS

New Law Requires Insurance Parity for Mental Health Care

Client Alert

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On May 21, 2024, Governor Whitmer signed into law Public Act 41 of 2024, which adds Section 3406hh to the Michigan Insurance Code^[1] requiring insurers to cover mental health and substance use disorder (“SUD”) treatments in the same way as physical health coverage. The new legislation mirrors the guidelines set forth in the federal Mental Health Parity and Addiction Act of 2008^[2] and associated regulations.^[3] The guidelines generally require that financial and treatment limitations imposed upon mental health and SUD services cannot be more restrictive than those applicable to medical and surgical benefits in the same classification (i.e., inpatient in-network/out-of-network, outpatient in-network/out-of-network, emergency services and prescription coverage).

“Mental Health Parity” refers to the treatment of mental health conditions and SUD as equivalent to other health conditions in insurance plans, including any rules related to care management, such as prior authorizations, and treatment limitations. Effective treatments of mental health and SUD include services needed to maintain functioning or prevent deterioration. By supporting Mental Health Parity, the determination of the appropriate level of care for patients with mental health and/or SUD can be made on the basis of a multidimensional assessment that takes into account a wide variety of information about the patient, and not based on a patient’s inability to obtain insurance coverage.

Governor Whitmer addressed the new law as “a commonsense, bipartisan bill to require insurers to provide equal coverage for mental health and substance use disorder treatments, just as they do for physical health treatments . . . [that] will ensure Michiganders get the care they need and close loopholes that have allowed providers to avoid covering these essential services.”

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The advancement in Michigan's mental healthcare is a nod in the right direction when it comes to healthcare equality. As noted in the legislative analysis^[4]:

Michigan is experiencing a surge in mental health issues that existed before the COVID-19 pandemic. The State ranks 17th in the nation in a metric that considers prevalence of mental health conditions and availability of mental health treatment, according to Mental Health America, a nonprofit focused on studying mental illness in the United States. For children and adolescents specifically, Michigan ranks 35th in the nation by the same metric. Codifying MH/SUD parity in State law could deter a worse mental health crisis if the Federal law requiring parity were ever repealed.

If you would like more information about the new law, please reach out to the authors of this Client Alert or your regular Butzel attorney.

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[1] MCL 500.3406hh.

[2] Public Law 110-343, codified at 42 U.S.C. § 300gg-26.

[3] See 45 CFR § 146.136.

[4] See, Senate Fiscal Agency Analysis of SB 0027 (November 30, 2023), available here (internal citations omitted).