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Rep. Lindsey LaPointe

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AMENDMENT TO HOUSE BILL 2847

AMENDMENT NO. ______. Amend House Bill 2847 by replacing everything after the enacting clause with the following:

"Section 1. References to Act; purpose.

(a) References to Act. This Act may be referred to as the Mental Health Equity Access and Prevention Act.

(b) Purpose. This Act is intended to address Illinois' skyrocketing mental health needs for children, youth, and adults following the COVID-19 pandemic, cover preventive mental health care to address symptoms early, increase access to affordable care, and maximize the full mental health workforce.

Section 5. Findings. The General Assembly finds that:

(1) According to a recent U.S. Surgeon General's Advisory on Protecting Youth Mental Health, the proportion of high school students reporting persistent feelings of

1 hopelessness and sadness increased by 40% between 2009 and
2 2019, and rates of depression and anxiety doubled during
3 the COVID-19 pandemic.
4 (2) Death by suicide is alarmingly high, particularly
5 among Black children. Black children under 13 are now
6 nearly twice as likely to die by suicide than White
7 children.
8 (3) According to a bipartisan United States Senate
9 Finance Committee report on Mental Health Care in the
10 United States, symptoms for depression and anxiety in
11 adults increased nearly fourfold during the COVID-19
12 pandemic.
13 (4) At the same time of unprecedented demand for
14 treatment and support, the mental health workforce crisis
15 is causing severe mental health care access challenges.
16 (5) Private insurance does not cover preventive mental
17 health care. Preventive mental health care can address
18 mental health issues before symptoms worsen or before a
19 mental health crisis occurs.
20 (6) Commercial insurance networks that include mental
21 health providers are severely restrictive, meaning a small
22 percentage of the mental health workforce is contracted as
23 in-network providers. This forces individuals and patients
24 to seek costly treatment through out-of-network care.
25 (7) The cost of mental health treatment is
26 inaccessible and unaffordable for many Illinoisans for

these reasons.

(8) A recent Milliman research report that analyzed insurance claims for 37 million Americans, including Illinois residents, found major disparities in insurance contracting with in-network mental health providers and contracting with medical/surgical providers. The report's findings include the following:

(A) Illinois out-of-network mental health utilization was 18.2% for outpatient services in 2017 compared to just 3.9% for medical/surgical services.

(B) Illinois out-of-network mental health utilization was 12.1% in 2017 for inpatient care compared to just 2.8% for medical/surgical services.

(C) The disparity between out-of-network usage for mental health compared to medical/surgical services grew significantly between 2013 and 2017: out-of-network mental health utilization for outpatient visits grew by 44% while out-of-network utilization for medical/surgical services decreased by 42% over the same period in Illinois.

(D) Nearly 14% of mental health office visits for individuals with a PPO plan were out-of-network in Illinois.

(9) According to a report in JAMA Psychiatry, 26% of psychiatrists see patients who do not use their insurance to pay for their visit because it is an out-of-network

1 visit; according to a 2015 American Psychological
2 Association Survey of Psychology Health Service Providers,
3 21% of psychologists report that most of their patients
4 pay out-of-pocket because their visit is out-of-network.
5 (10) Illinois must maximize its full mental health
6 workforce to address the mental health crisis the state is
7 experiencing post-COVID-19 and improve access to
8 affordable, timely care.

9 Section 10. The Department of Public Health Powers and
10 Duties Law of the Civil Administrative Code of Illinois is
11 amended by adding Section 2310-720 as follows:

12 (20 ILCS 2310/2310-720 new)
13 Sec. 2310-720. Public educational effort on mental health
14 and wellness. Subject to appropriation, the Department shall
15 undertake a public educational campaign to bring broad public
16 awareness to communities across this State on the importance
17 of mental health and wellness, including the expanded coverage
18 of mental health treatment, and consistent with the
19 recommendations of the Illinois Children's Mental Health
20 Partnership's Children's Mental Health Plan of 2022 and Public
21 Act 102-899. The Department shall look to other successful
22 public educational campaigns to guide this effort, such as the
23 public educational campaign related to Get Covered Illinois.
24 Additionally, the Department shall work with the Department of

1 Insurance, the Illinois State Board of Education, the
2 Department of Human Services, the Department of Healthcare and
3 Family Services, the Department of Juvenile Justice, the
4 Department of Children and Family Services, and other State
5 agencies as necessary to promote consistency in messaging and
6 distribution methods between this campaign and other
7 concurrent public educational campaigns related to mental
8 health and mental wellness. Public messaging for this campaign
9 shall be simple, easy to understand, and shall include
10 culturally competent messaging for different communities and
11 regions throughout this State.

12 Section 15. The Illinois Insurance Code is amended by
13 adding Sections 356z.61 and 356z.62 as follows:

14 (215 ILCS 5/356z.61 new)
15 Sec. 356z.61. Coverage of out-of-network mental health
16 care.
17 (a) As used in this Section:
18 "Grandfathered health plan" has the meaning given to that
19 term in 42 U.S.C. 18011.
20 "Individual market" has the meaning given to that term in
21 Section 5 of the Illinois Health Insurance Portability and
22 Accountability Act. "Individual market" includes student
23 health insurance coverage.
24 "Large group market" has the meaning given to that term in

1 Section 5 of the Illinois Health Insurance Portability and
2 Accountability Act.
3 "Market" means the individual, small group, or large group
4 market. "Market" includes grandfathered and transitional
5 health plans pertaining to the policyholder to which the plan
6 is issued or renewed.
7 "Network plan" has the meaning given to that term in
8 Section 5 of the Network Adequacy and Transparency Act.
9 "Small group market" has the meaning given to that term in
10 Section 5 of the Illinois Health Insurance Portability and
11 Accountability Act.
12 "Student health insurance coverage" has the meaning given
13 to that term in 45 CFR 147.145.
14 "Transitional health plan" means a plan subject to the
15 limited non-enforcement policy regarding the federal Patient
16 Protection and Affordable Care Act for certain
17 non-grandfathered health plans in the individual and small
18 group markets that the federal Centers for Medicare and
19 Medicaid Services announced in a letter to state insurance
20 commissioners, dated November 14, 2013, to the extent that the
21 limited non-enforcement policy has been renewed annually by
22 the federal Centers for Medicare and Medicaid Services and
23 ratified by the Department.
24 (b) Notwithstanding the provisions of the Network Adequacy
25 and Transparency Act, a group or individual policy of accident
26 and health insurance or a managed care plan that is amended,

delivered, issued, or renewed on or after January 1, 2025 shall cover all medically necessary out-of-network mental health visits, including prevention and wellness visits, mental health treatment, and mental health services provided by a mental health provider or facility.

(c) For purposes of insured cost sharing, the insured shall pay no more for the out-of-network services and visits than the insured would have paid for in-network services and visits.

(d) No action shall be required by the insured to use out-of-network mental health services covered pursuant to this Section. The insured has the right to select the provider of their choice and the modality, in-person visit or telehealth, for medically necessary care.

(e) The insurer shall reimburse the out-of-network mental health provider or facility at the provider's usual and customary charges for out-of-network medically necessary patient care.

(f) This Section shall apply to each market in which the insurer offers or provides any network plan until the insurer's network plans in that market reduce by 50% the annual disparity between out-of-network mental health utilization and out-of-network medical/surgical utilization for both outpatient mental health visits and inpatient mental health visits from the Base Year by increasing the number of in-network mental health providers and facilities. Outpatient

1 mental health visits and inpatient mental health visits shall
2 be measured separately. The Base Year shall be calendar year
3 2022 for purposes of measuring the disparity against future
4 years. The Department may require an insurer to file
5 utilization data to establish the disparity level in a market
6 for the Base Year as needed. If and only if an insurer did not
7 have network plans in a market in this State in 2022, the
8 Department shall allow an insurer entering that market to use
9 alternative data to establish a Base Year to simulate 2022
10 utilization, subject to the Department's approval of the
11 sources of data. An insurer's network plans in a market are
12 exempt from this Section for inpatient care or outpatient
13 care, or both, once the 50% reduction in the disparity between
14 mental health and medical/surgical out-of-network utilization
15 is met. The exemption does not extend to the annual filing
16 requirement under subsection (g).
17 (g) An insurer shall file annually the metrics established
18 in this Section for each market in which the insurer issued or
19 renewed any network plan during the preceding calendar year.
20 An insurer may request a review from the Department, and the
21 Department shall undertake such a review, in any given year if
22 the insurer believes it has reduced the disparity described in
23 this Section for inpatient or outpatient care, or both, by the
24 end of the preceding calendar year for one or more markets to
25 qualify for an exemption. If the Department determines that
26 the insurer has not reduced the disparity, the insurer may not

request another exemption review for 3 years. If an insurer becomes exempt from this Section for a market in a given year but fails to maintain the 50% reduction in the disparity between mental health and medical/surgical out-of-network utilization in a future calendar year based on a Department review, the exemption lapses for the following plan year. An insurer may not submit a request to reinstate a lapsed exemption at least until the second calendar year after the year the lapse takes effect. Plan beneficiaries shall be notified at least 60 days before renewal when there will be any change in benefit coverage based on an exemption or lapse of exemption.

(h) The Department shall adopt any rules necessary to implement this Section by no later than October 31, 2024.

(i) This Section is subject to appropriation to the Department of Insurance.

(215 ILCS 5/356z.62 new)

Sec. 356z.62. Coverage of no-cost mental health prevention and wellness visits.

(a) A group or individual policy of accident and health insurance or managed care plan that is amended, delivered, issued, or renewed on or after January 1, 2025 shall provide coverage for 2 annual mental health prevention and wellness visits for children and for adults.

(b) Mental health prevention and wellness visits shall

1 include any age-appropriate screening recommended by the
2 United States Preventive Services Task Force or by the
3 American Academy of Pediatrics' Bright Futures: Guidelines for
4 Health Supervision of Infants, Children, and Adolescents for
5 purposes of identifying a mental health issue, condition, or
6 disorder; discussing mental health symptoms that might be
7 present, including symptoms of a previously diagnosed mental
8 health condition or disorder; performing an evaluation of
9 adverse childhood experiences; and discussing mental health
10 and wellness.
11 (c) A mental health prevention and wellness visit shall be
12 covered for up to 60 minutes and may be performed by a
13 physician licensed to practice medicine in all of its
14 branches, a licensed clinical psychologist, a licensed
15 clinical social worker, a licensed clinical professional
16 counselor, a licensed marriage and family therapist, a
17 licensed social worker, or a licensed professional counselor.
18 (d) A policy subject to this Section shall not impose a
19 deductible, coinsurance, copayment, or other cost-sharing
20 requirement for mental health and wellness visits, and no
21 prior authorization shall be required for the visits. The
22 cost-sharing prohibition in this subsection (d) does not apply
23 to coverage of mental health prevention and wellness visits to
24 the extent such coverage would disqualify a high-deductible
25 health plan from eligibility from a health savings account
26 pursuant to Section 223 of the Internal Revenue Code.

(e) A mental health prevention and wellness visit shall not replace a Well Child visit or a general health or medical visit.

(f) A mental health prevention and wellness visit shall be reimbursed through the following American Medical Association current procedural terminology codes and at the same rate that current procedural terminology codes are reimbursed for the provision of other medical care: 99381-99387 and 99391-99397.

(g) Reimbursement of any of the current procedural terminology codes listed in this Section shall comply with the following:

(1) Reimbursement may be adjusted for payment of claims that are billed by a nonphysician clinician so long as the methodology to determine the adjustments are comparable to and applied no more stringently than the methodology for adjustments made for reimbursement of claims billed by nonphysician clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4);

(2) for the purpose of covering a mental health prevention and wellness visit, reimbursement shall not be denied because the code was already reimbursed for the purpose of covering a service other than such visit;

(3) for the purpose of covering a service other than a mental health prevention and wellness visit, reimbursement shall not be denied because the code was already reimbursed for the purpose of covering a mental health

1 prevention and wellness visit; and
2 (4) for a mental health prevention and wellness visit
3 and for a service other than a mental health prevention
4 and wellness visit, reimbursement shall not be denied if
5 they occur on the same date by the same provider and the
6 provider is a primary care provider.
7 (i) The Department shall adopt any rules necessary to
8 implement this Section by no later than October 31, 2024.

9 Section 99. Effective date. This Act takes effect July 1,
10 2024.".