



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney,
Governor

John McNeal, Director
SCPD

MEMORANDUM

DATE: April 5, 2022

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Terri Hancharick, Chairperson *TH*
State Council for Persons with Disabilities

RE: H.B. 303 (Behavioral Well Checks)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 303 which would require coverage of an annual behavioral health well check. SCPD endorses the proposed legislation because it will require parity in coverage for mental health and substance abuse disorders and medical coverage. In addition, SCPD recommends that specialists with expertise in dual diagnoses (mental health and ID/DD) be included on the advisory committee established by the legislation.

SCPD has the following observations.

House Bill 303 is an Act that would amend several titles of the Delaware Code. First, it would amend two (2) chapters of Title 18, the Insurance Code, Insurance. It would amend Chapter 33, Health Insurance Contracts, General Provisions, by adding Section 3370E and Chapter 35, Group and Blanket Health Insurance, Group Health Insurance, by adding Section 3571Z.

In addition, the Act would amend Title 31 Welfare, In General, Chapter 5, State Public Assistance Code by adding Section 530. It would also amend Title 29, State

Government, Public Officers and Employees, Chapter 52, Health Care Insurance, by amending Section 5215.

The Act would require all insurance carriers in the state to provide coverage for annual well visits for behavioral health. The coverage is mandated in all plans, including group plans, Medicaid, and plans for State government officers and employees.

The behavioral health well check is to be provided pre-deductible annually, by a “licensed mental health clinician with at minimum a masters level degree.” (Sections 1, 2, 3, and 4; 18 Del. C. § 3370E.(a)(1); 18 *Del. C.* §3571Z.(a)(1); 31 *Del. C.* §530.(a)(1); and 29 *Del. C.* §5215.(a)). The requirements of the visit are broad and comprehensive, and “must include but is not limited to a review of medical history, evaluation of adverse childhood experiences, use of appropriate battery of validated mental health screening tools, and may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of ‘annual behavioral health well check.’” (Sections 1, 2, 3, and 4; 18 *Del. C.* § 3370E.(a)(1); 18 *Del. C.* §3571Z.(a)(1); 31 *Del. C.* §530.(a)(1); and 29 *Del. C.* §5215.(a)).

House Bill 303 also establishes an advisory committee for the design and implementation of the of the annual behavioral health well check created by the Act. (Section 5). The committee would consist of nine (9) members. The members shall include two (2) “actively practicing pediatric behavioral health clinicians, one of whom shall specialize in the treatment of adolescents;” two (2) “actively practicing adult behavioral health clinicians, one of whom shall specialize in the treatment of geriatric populations;” one (1) “actively practicing women’s behavioral health clinician;” two (2) behavioral health policy advocates, one of whom is a specialist in behavioral health policy advocacy at the national level and one of whom is a specialist in behavioral health policy advocacy at the local level;” and two (2) “actively practicing primary care physicians.” (Section 5).

This Act implements and expands upon the requirements of the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA).¹ This Act is also a belated

¹ Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Pub. L. No. 110-343 §511 (codified at 29 U.S.C.A. §1185a (2010)). This federal law generally prevents group health plans and health insurance carriers that provide coverage for mental health or substance abuse disorders from providing less favorable benefits than for physical health benefits. This law does not apply to Medicare. There is parity in Medicare through the Medicare Improvements for Patients and Providers Act of 2008, Pub. L. No. 110-275 (enacted July 15, 2008) (MIPPA).

recognition by the legislature that Delaware citizens are entitled to coverage for mental health and substance abuse disorders on a par with physical health services. As stated in the preamble to the Act, Delaware ranks 35th in the nation for mental illness and substance abuse disorders. The situation was exacerbated by the COVID-19 pandemic. Mental health issues cost “almost \$200 billion in lost wages and almost \$100 billion in healthcare costs nationally.” (Preamble to the Act). The failure to address childhood trauma through treatment and screening leads to an increase in mental health illnesses and substance abuse disorders and an increase in incarceration and other negative health behaviors. (Preamble to the Act). There is also the stigma associated with mental health disorders and the intent of the Act is to help change those perceptions by encouraging individuals to seek care and treatment by mandating insurance coverage.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position, observations, or recommendations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 303 [Behavioral Well Checks (4-5-22)]