

HB 303 -- Redline

HA 2 to HB 303 to Bill Text -- AN ACT TO AMEND TITLES 18, 29, AND 31 OF THE DELAWARE CODE RELATING TO MENTAL HEALTH.

Deletions ~~struck~~ · Insertions underlined

Longhurst ~~HOUSE OF Rep.~~ REPRESENTATIVES 151st GENERAL ASSEMBLY HOUSE AMENDMENT NO.

~~2~~Griffith ~~TO~~ ~~HOUSE Rep.~~ BILL NO.

~~303~~Heffernan ~~AMEND~~ ~~House Rep.~~ Bill No.

~~303~~Minor-Brown ~~on~~ ~~line Rep.~~ 29 by deleting "appropriate battery of validated mental health screening tools," and substituting in lieu thereof "a group of developmentally appropriate mental health screening tools,".

~~FURTHER~~Briggs ~~AMEND~~ ~~King House~~ ~~Bill Sen.~~ No.

~~303~~Poore ~~on~~ ~~Reps.~~ line 37 by inserting after the word "which" as it appears thereon and before "shall", the following:

~~"~~,Baumbach, ~~except~~Carson, ~~ask~~, provided in subsection (d) of this section,".

~~FURTHER~~Johnson, ~~AMEND~~Mitchell, ~~House S.~~ Bill No.

~~303~~Moore, ~~by~~Morrison, ~~deleting~~K. line 60 and substituting in lieu thereof the following:

~~"service~~Williams, arrangement,Wilson-Anton; provided that a carrier must have documentation demonstrating that within such payment arrangement the annual behavioral health well check is valued commensurate to the value established under subsection (b) of this section.".

~~FURTHER~~Sens. ~~AMEND~~ House Bill No.

~~303~~Gay, ~~by~~Hansen, insertingMantzavinos, thePettyjohn, followingSturgeon, afterWalsh lineHOUSE 740F andREPRESENTATIVES before151st lineGENERAL 75:ASSEMBLY HOUSE BILL NO.

~~"(f)~~303 NothingAN INACT thisTO sectionAMEND preventsTITLES the18, operation29, ofAND policy31 provisionsOF suchTHE asDELAWARE copayments, CODE coinsurance, RELATING allowableTO chargeMENTAL limitations, HEALTH. coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified, or carrier approved providers or facilities.".

~~FURTHER~~WHEREAS, ~~AMEND~~the Housefederal Billgovernment No-passed the 2008 Mental Health Parity and Addiction Act effectively making it illegal for health insurance plans to inequitably cover mental health and substance use disorder services compared to that of their physical health services;

~~303~~and ~~on~~th lineWHEREAS, ~~81~~the ~~by~~State ~~deleting~~of "aDelaware validatedis mentalranked health35 screeninghighest tool," and substituting in lieuthe thereofcountry "afor groupprevalence of developmentally appropriate mental health screeningillness tools," and substance use disorders;

~~FURTHER~~and ~~AMEND~~WHEREAS, Housethe BillCOVID-19 No-public health crisis has caused an increase in pediatric psychiatric related emergency room visits in the United States by 51% from 2020 to 2021 while decreasing adult admissions for the treatment of substance use disorders and mental health illness;

~~303~~and ~~on~~WHEREAS, lineamental 80health byissues insertingcome afterat thea wordcost "which"of asalmost it\$200 appearsbillion thereonin lost wages and beforealmost "shall", \$100 thebillion following:in healthcare costs nationally;

~~"~~,and ~~except~~WHEREAS, it is proven that childhood trauma unaddressed via screening and treatment lead to increased mental health disorders, substance use disorders, as ~~provided~~well inas subsectionhigher (d)rates of thisincarceration section," and negative health behaviors resulting in heightened cost for individuals across their lifespan;

~~FURTHER~~and ~~AMEND~~WHEREAS, Housea Billmultidiscipline No-analysis by the National Academies of Sciences, Engineering and Medicine determined that every dollar of investment in mental health and addiction prevention programs yields a 2 to 10 times savings in health care, criminal and juvenile justice and low productivity costs;

~~303~~and ~~by~~WHEREAS, ~~deleting~~parity linerequires 121health andinsurance substitutingplans inthat lieuoffer thereofannual thephysical following:examinations, annual child well visits or annual gynecological exams must then offer annual well visits for behavioral health;

~~"service~~and arrangement,WHEREAS providedtrue thatparity acannot carrierbe mustachieved haveuntil documentationperceptions demonstratingare thatchanged withinwhen suchthose paymentwith arrangement the annual-behavioral health wellneeds checkcan isseek valuedand commensurateaccess tohealthcare thewithout valueunnecessary establishedbarriers underthat subsectionis (b)equal to that of thistheir section,".physical health needs.

~~FURTHER~~NOW, ~~AMEND~~THEREFORE: ~~House Bill~~ No.

~~303~~BE ~~by~~IT insertingENACTED theBY followingTHE afterGENERAL lineASSEMBLY 126OF andTHE beforeSTATE lineOF 127:DELAWARE:

~~"(f)~~ Nothing in this section prevents the operation of policy provisions such as copayments,

~~coinsurance, allowable charge limitations, coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified, or carrier-approved providers or facilities."~~

MAW Page 1 of 39 Released:

~~05/03/202202/10/2022 11:3603:15 AMPM FURTHERSection AMEND1. House Bill No.~~

~~303Amend onSubchapter lineI, 133Chapter by33, deletingTitle "a18 validatedof mentalthe healthDelaware screeningCode tool,"by andmaking substitutingdeletions inas lieushown thereofby "astrike groupthrough ofand developmentallyinsertions appropriateas mentalshown healthby screeningunderline tools,"as follows:~~

~~FURTHERSec. AMEND3370E. House Bill No.~~

~~303Annual onbehavioral linehealth 137well bycheck. inserting after the word "which" as it appears thereon and before "shall", the following:~~

~~"(a) exceptAs asused provided in subsection (d) of this section," section:~~

~~FURTHER(1) AMEND"Behavioral Househealth Billwell No-check" means a pre-deductible annual visit with a licensed mental health clinician with at minimum a masters level degree.~~

~~303The bywell deletingcheck line170include 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 substitutingmay ininclude lieuanticipatory thereofbehavioral health guidance congruent with stage of life using the following:diagnosis of "annual behavioral health well check."~~

~~"service(2) arrangement,"Carrier" providedmeans thatany aentity carrier must have documentation demonstrating that withinprovides suchhealth paymentinsurance arrangementin thethis annualState behavioralthat health well check is valuedsubject commensurate to the valueprovisions established under subsection (b) of this section," chapter.~~

~~FURTHER"Carrier" AMENDincludes Housean Billinsurance No-company, health service corporation, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.~~

~~303"Carrier" byalso insertingincludes theany followingthird-party afteradministrator lineor 175other andentity beforethat lineadjusts, 176-administers, or settles claims in connection with health benefit plans.~~

~~"(f)(b) NothingAll incarriers thisshall sectionprovide preventscoverage of an annual behavioral health well check, which shall be reimbursed through the operationfollowing ofcommon policyprocedural provisionsterminology (CPT) codes at the same rate that such asCPT copayments, codes coinsurance, are allowablereimbursed chargefor limitations, the coordinationprovision of benefits, other ormedical provisionscare, restrictingprovided coverage that reimbursement may be adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to servicesdetermine renderedsuch adjustments is comparable to and applied no more stringently than the methodology for adjustments made for reimbursement of claims billed by licensed, non-physician certified, clinicians orfor carrier-approvedother providersmedical orcare, facilities." in accordance with 45 CFR 146.136(c)(4):~~

~~FURTHER(1) AMEND99381. House Bill No.~~

~~303(2) on99382. line 181 by deleting "a validated mental health screening tool," and substituting in lieu thereof "a group of developmentally appropriate mental health screening tools,".~~

~~FURTHER(3) AMEND99383. House Bill No.~~

~~303(4) on99384. line 184 by inserting after the word "which" as it appears thereon and before "shall", the following:~~

~~"(5) except99385. as provided in subsection (d) of this section,".~~

~~FURTHER(6) AMEND99386. House Bill No.~~

~~303(7) by99387. deleting line 216 and substituting in lieu thereof the following:~~

~~"service(8) arrangement, 99391. provided that a carrier must have documentation demonstrating that within such payment arrangement the annual behavioral health well check is valued commensurate to the value established under subsection (b) of this section."~~

~~FURTHER(9) AMEND99392. House Bill No.~~

~~303(10) by99393. inserting the following after line 221 and before line 222:~~

~~"(f) Nothing in this section prevents the operation of policy provisions such as copayments, coinsurance, allowable charge limitations, coordination of benefits, or provisions restricting coverage to services rendered by licensed, certified, or carrier-approved providers or facilities."~~

~~FURTHER AMEND House Bill No.~~

~~303 by striking lines 240 through 242 in their entirety and substituting in lieu thereof the following:~~

~~"(6) The President of the Delaware Healthcare Association, or the President's designee.~~

~~(7) The Secretary of the Department of Health and Social Services, or the Secretary's designee, in an ex officio capacity.~~

~~(8) The Insurance Commissioner, or the Commissioner's designee, in an ex officio capacity.~~

~~05/03/2022 02/10/2022 11:36 03:15 AMPM The (11) advisory 99394. council may call upon any state agency for assistance, information, or data that may be necessary to carry out the purposes for which it is established.~~

~~For (12) administrative 99395. and budgetary".~~

~~FURTHER (13) AMEND 99396. House Bill No.~~

~~303 (14) on 99397. line 250 by deleting "January 1, 2023" and substituting in lieu thereof "January 1, 2024".~~

SYNOPSIS (c) This (1) amendment The does Commissioner shall update this list of codes through the following: promulgation of rules if the CPT codes listed in subsection (b) of this section are altered, amended, changed, deleted, or supplemented.

Clarifies (2) that Reimbursement of any of the well CPT visit codes should listed include in use subsection (b) of at this "group section of for developmentally promulgated appropriate under mental paragraph health (c)(1) screening of tools." this Add section for the President purpose of the covering Delaware an Health annual Care behavioral Association health to well the check implementation may advisory not committee, be as denied well because as such DHSS CPT and code was already reimbursed for the Insurance purpose Commissioner of as covering exa officio service members, other than an annual behavioral health well check.

Clarifies (3) that Reimbursement copays, of network any requirements, of and the other CPT provisions codes listed in subsection (b) of an this insurance section policy or will promulgated apply under to paragraph (c)(1) of this section for the mental purpose of covering a service other than an annual behavioral health well visit check as may well not be denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral health well check.

Changes (d) the An effective annual date behavioral from health January well 1, check 2023 may to be January reimbursed 1, through 2024, a value-based arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for- service arrangement.

Clarifies (e) different An ways annual a behavioral carrier health well check may reimburse be a incorporated provider into for and reimbursed within any type of integrated primary care service delivery method including, but not limited to, the annual psychiatric collaborative care model, the primary care behavioral health check model by or reference behavioral to health equivalent consultant values model, in any a model fee-for-service that model involves co-location of mental health professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary care.

Section 2.

Amend Chapter 35, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Sec. 3571Z.

Annual behavioral health well check.

(a) As used in this section:

(1) "Behavioral health well check" means a pre-deductible annual visit with a licensed mental health clinician with at minimum a masters level degree.

The well check must include but is not limited to a review of medical history, evaluation of adverse childhood experiences, use of a validated mental health screening tool, and may include HD :

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02/10/2022 03:15 PM 82 anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual behavioral health well check." (2) "Carrier" means any entity that provides health insurance in this State that is subject to this subchapter.

"Carrier" includes an insurance company, health service corporation, health maintenance organization, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

"Carrier" also includes any third-party administrator or other entity that adjusts, administers, or settles claims in connection with health benefit plans.

(b) All carriers shall provide coverage of an annual behavioral health well check, which shall be reimbursed through the following common procedural terminology (CPT) codes at the same rate that such CPT codes are reimbursed for the provision of other medical care, provided that reimbursement may be adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to determine such adjustments is comparable to and applied no more stringently than the methodology for adjustments made for reimbursement of claims billed by non-physician clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4):

(1) 99381.

(2) 99382.

- (3) 99383.
- (4) 99384.
- (5) 99385.
- (6) 99386.
- (7) 99387.
- (8) 99391.
- (9) 99392.
- (10) 99393.
- (11) 99394.
- (12) 99395.
- (13) 99396.
- (14) 99397.

(c) (1) The Commissioner shall update this list of codes through the promulgation of rules if the CPT codes listed in subsection (b) of this section are altered, amended, changed, deleted, or supplemented.

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~~05/03/2022~~ ~~02/10/2022~~ ~~11:36~~ ~~03:15~~ ~~AM~~ ~~PM~~ ~~2141510647~~ (2) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under paragraph (c)(1) of this section for the purpose of covering an annual behavioral health well check may not be denied because such CPT code was already reimbursed for the purpose of covering a service other than an annual behavioral health well check.

(3) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under paragraph (c)(1) of this section for the purpose of covering a service other than an annual behavioral health well check may not be denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral health well check.

(d) An annual behavioral health well check may be reimbursed through a value-based arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for- service arrangement.

(e) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary care.

Section 3.

Amend Chapter 5, Title 31 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Sec. 530.

Annual behavioral health well check.

(a) As used in this section:

(1) "Behavioral health well check" means a pre-deductible annual visit with a licensed mental health clinician with at minimum a masters level degree.

The well check must include but is not limited to a review of medical history, evaluation of adverse childhood experiences, use of a validated mental health screening tool, and may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual behavioral health well check." (2) "Carrier" means any entity that provides health insurance under Sec. 505(3) of this title.

(b) All carriers shall provide coverage of an annual behavioral health well check, which shall be reimbursed through the following common procedural terminology (CPT) codes at the same rate that such CPT codes are reimbursed for the provision of other medical care, provided that reimbursement may be adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to determine such adjustments is comparable to and applied no HD :

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02/10/2022 03:15 PM more stringently than the methodology for adjustments made for reimbursement of claims billed by non-physician clinicians for other medical care, in accordance with 42 CFR 438.910(d)(1):

- (1) 99381.
- (2) 99382.
- (3) 99383.
- (4) 99384.
- (5) 99385.

- (6) 99386.
- (7) 99387.
- (8) 99391.
- (9) 99392.
- (10) 99393.
- (11) 99394.
- (12) 99395.
- (13) 99396.
- (14) 99397.

(c) (1) The Director of the Division of Medicaid and Medical Assistance shall update this list of codes through the promulgation of rules if the CPT codes listed in subsection (b) of this section are altered, amended, changed, deleted, or supplemented.

(2) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under paragraph (c)(1) of this section for the purpose of covering an annual behavioral health well check may not be denied because such CPT code was already reimbursed for the purpose of covering a service other than an annual behavioral health well check.

(3) Reimbursement of any of the CPT codes listed in subsection (b) of this section or promulgated under paragraph (c)(1) of this section for the purpose of covering a service other than an annual behavioral health well check may not be denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral health well check.

(d) An annual behavioral health well check may be reimbursed through a value-based arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for-service arrangement.

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02/10/2022 03:15 PM (e) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary care.

Section 4.

Amend Chapter 52, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Sec. 5215.

Annual behavioral health well check.

(a) As used in this section "Behavioral health well check" means a pre-deductible annual visit with a licensed mental health clinician with at minimum a masters level degree.

The well check must include but is not limited to a review of medical history, evaluation of adverse childhood experiences, use of a validated mental health screening tool, and may include anticipatory behavioral health guidance congruent with stage of life using the diagnosis of "annual behavioral health well check." (b) The plan shall provide coverage of an annual behavioral health well check, which shall be reimbursed through the following common procedural terminology (CPT) codes at the same rate that such CPT codes are reimbursed for the provision of other medical care, provided that reimbursement may be adjusted for payment of claims that are billed by a non-physician clinician so long as the methodology to determine such adjustments is comparable to and applied no more stringently than the methodology for adjustments made for reimbursement of claims billed by non-physician clinicians for other medical care, in accordance with 45 CFR 146.136(c)(4):

- (1) 99381.
- (2) 99382.
- (3) 99383.
- (4) 99384.
- (5) 99385.
- (6) 99386.
- (7) 99387.
- (8) 99391.
- (9) 99392.
- (10) 99393.
- (11) 99394.

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02/10/2022 03:15 PM (12) 99395.

(13) 99396.

(14) 99397.

(c) (1) The State Employee Benefits Committee shall administratively update this list of codes if the CPT codes listed in subsection (b) of this section are altered, amended, changed, deleted, or supplemented.

(2) Reimbursement of any of the CPT codes listed in subsection (b) of this section or updated under paragraph (c)(1) of this section for the purpose of covering an annual behavioral health well check may not be denied because such CPT code was already reimbursed for the purpose of covering a service other than an annual behavioral health well check.

(3) Reimbursement of any of the CPT codes listed in subsection (b) of this section or updated under paragraph (c)(1) of this section for the purpose of covering a service other than an annual behavioral health well check may not be denied because such CPT code was already reimbursed for the purpose of covering an annual behavioral health well check.

(d) An annual behavioral health well check may be reimbursed through a value-based arrangement, a capitated arrangement, a bundled payment arrangement, or any other alternative payment arrangement that is not a traditional fee-for- service arrangement.

(e) An annual behavioral health well check may be incorporated into and reimbursed within any type of integrated primary care service delivery method including, but not limited to, the psychiatric collaborative care model, the primary care behavioral health model or behavioral health consultant model, any model that involves co-location of mental health professionals within general medical settings, or any other integrated care model that focuses on the delivery of primary care.

Section 5.

For the purposes of this implementing this Act, there is created an advisory committee whose mandate is to create a developmentally appropriate design for the annual behavioral health well check established under this legislation.

The advisory committee shall commence work as soon as practicable after the enactment of this Act and shall hold its first meeting within 90 days of the enactment of this Act.

The advisory committee shall finalize all work within six months of the enactment of this legislation, and deliver its recommendations to the Secretary of the Department of Health and Human Services, as well as the chairperson of the House Health and Human Development Committee and the Senate Health and Social Services Committee.

The advisory committee shall seek to design the annual behavioral health well check in a manner that is reflective of existing annual physical health well checks and include questions and anticipatory guidance specific to each respective age group.

The advisory committee shall include all of the following members:

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02/10/2022 03:15 PM (1) Two actively practicing pediatric behavioral health clinicians, one of whom shall specialize in the treatment of adolescents, appointed by the Speaker of the House.

(2) Two actively practicing adult behavioral health clinicians, one of whom shall specialize in the treatment of geriatric populations, appointed by the Speaker of the House.

(3) One actively practicing women's behavioral health clinician, appointed by the Senate President Pro Tempore.

(4) Two 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, appointed by the Speaker of the House.

(5) Two actively practicing primary care physicians, appointed by Senate President Pro Tempore.

The advisory council may call upon the Department of Health and Social Services, Department of Insurance, Department of Human Resources, Delaware Health Information Network, and any additional state agency for any assistance, information, or data that may be necessary to carry out the purposes for which it has been established.

For administrative and budgetary purposes only, the advisory council shall be placed within the Department of Health and Social Services, Office of the Secretary.

For the purposes of convening an organizational meeting, the behavioral health policy advocate who specializes in local advocacy shall serve as chair of the advisory council.

A permanent chair and vice chair shall be elected by the members from those among those appointed to serve.

In making appointments, the Speaker and President Pro Tempore, shall attempt to include in the appointed members of the advisory committee at least one psychiatrist, one clinical psychologist, one psychiatric nurse practitioner, one licensed clinical social worker, and one additional physician or nurse practitioner.

Section 6.

Sections 1 through 4 of this Act take effect on January 1, 2023.

SYNOPSIS This bill amends Chapter 33, Title 18 of the Delaware Code by adding a new Sec. 3370E to require coverage of an annual behavioral health well check.

This bill also amends Chapter 35, Title 18 of the Delaware Code by adding a new Sec. 3571Z to require coverage of an annual behavioral health well check.

This bill also amends Chapter 5, Title 31 of the Delaware Code by adding a new Sec. 530 to require coverage of an annual behavioral health well check.

This bill also amends Chapter 52, Title 29 of the Delaware Code by adding a new Sec. 5215 to require coverage of an annual behavioral health well check.

Finally, the bill creates an advisory committee of health professionals tasked with creating recommendations for implementation of the Act.

The requirement for coverage of the behavioral health well check is effective January 1, 2023.

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